File Microcopies of Records in the National Archives: No. 133

Roll 81

DESPATCHES FROM UNITED STATES MINISTERS TO JAPAN

Volume 81

September 5, 1905 - February 28, 1906

Volume 81 Annex

November 24, 1905

THE NATIONAL ARCHIVES

Washington: 1949

INTRODUCTION

The 83 volumes reproduced in this microcopy contain communications, with related enclosures, that were received by the Secretary of State from diplomatic representatives of the United States accredited to Japan in the period 1855-1906. The series, which may be referred to as "Diplomatic Despatches, Japan," is part of a larger body of records in the National Archives designated as Record Group 59, General Records of the Department of State. The documents have been reproduced in the order, for the most part chronological, in which they appear in the volumes. Their contents are registered on Roll 1.

The volumes, each of which has been microcopied on a separate roll (except volumes 81 and 81 Annex which have been placed on one roll), are distributed as follows:

Roll	Volume	Inclusive Dates
1	1	March 17, 1855 - June 29, 1858
2	2	July 1, 1858 - December 31, 1859
3	3	January 2, 1860 - May 6, 1862
4	4	February 7, 1862 - December 31, 1863
5	5	January 4, 1864 - December 31, 1864
6	6	January 2, 1865 - December 31, 1865
7	7	January 3, 1866 - December 31, 1866
8	8	January 2, 1867 - December 31, 1867
9	9	January 2, 1868 - April 8, 1868
10	10	April 10, 1868 - August 26, 1868
11	11	September 1, 1868 - April 1, 1869
12	12	April 1, 1869 - March 10, 1870
13	13	June 25, 1869 - April 21, 1870
14	14	May 2, 1870 - September 20, 1870
15	15	September 20, 1870
16	16	September 22, 1870 - December 31, 1870
17	17	January 1, 1871 - April 26, 1871
18	18	April 28, 1871 - August 21, 1871
19	19	August 27, 1871 - December 22, 1871
20	20	December 23, 1871 - September 27, 1872
21	21	September 29, 1872 - January 12, 1873
22	22	January 18, 1873 - April 12, 1873
23	23	April 16, 1873 - May 26, 1873
24	24	May 27, 1873 - July 5, 1873
25	25	July 6, 1873 - September 2, 1873
26	26	September 13, 1873 - December 18, 1873

Roll	Volume	Inclusive Dates
27	27	December 19, 1873 - March 20, 1874
28	28	March 21, 1874 - October 8, 1874
29	29	October 9, 1874 - March 20, 1875
30	30	March 23, 1875 - October 5, 1875
31	31	October 6, 1875 - February 5, 1876
32	32	February 8, 1876 - August 22, 1876
33	33	September 4, 1876 - March 6, 1877
34	34	March 7, 1877 - September 19, 1877
35	35	September 24, 1877 - December 31, 1877
36	36	January 4, 1878 - April 17, 1878
37	37	April 18, 1878 - July 23, 1878
38	38	July 24, 1878 - December 27, 1878
39	39	January 4, 1879 - July 23, 1879
40	40	July 24, 1879 - October 29, 1879
41	41	November 6, 1879 - March 24, 1880
42	42	April 9, 1880 - July 26, 1880
43	43	August 3, 1880 - January 22, 1881
44	44	February 1, 1881 - June 30, 1881
45	45	July 4, 1881 - November 23, 1881
46	46	December 3, 1881 - May 23, 1882
47	47	May 30, 1882 - November 30, 1882
48	48	December 4, 1882 - July 31, 1883
49	49	August 3, 1883 - December 31, 1883
50	50	January 7, 1884 - June 30, 1884
51	51	July 1, 1884 - December 29, 1884
52	52	January 2, 1885 - July 30, 1885
53	53	August 1, 1885 - December 31, 1885
54	54	January 6, 1886 - July 9, 1886
55	55	July 10, 1886 - December 29, 1886
56	56	January 1, 1887 - May 23, 1887
57	57	June 1, 1887 - December 31, 1887
58	58	January 6, 1888 - October 26, 1888
59	59	November 5, 1888 - July 31, 1889
60	60	August 1, 1889 - January 31, 1890
61	61	February 5, 1890 - June 23, 1890
62	62	July 7, 1890 - December 24, 1890
63	63	January 8, 1891 - December 28, 1891
64	64	January 5, 1892 - December 28, 1892
65	65	January 4, 1893 - August 28, 1893
66	66	September 2, 1893 - June 30, 1894
67	67	July 3, 1894 - November 29, 1894
68	68	December 7, 1894 - July 31, 1895
69	69	August 9, 1895 - September 22, 1896
70	70	October 1, 1896 - November 30, 1897
71	71	December 6, 1897 - August 29, 1898
72	72	September 3, 1898 - July 29, 1899
73	73	August 3, 1899 - June 30, 1900
74	74	July 1, 1900 - January 31, 1901
75	75	February 5, 1901 - December 31, 1901

Roll	Volume	Inclusive Dates
76	76	January 3, 1902 - August 30, 1902
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80	80	March 4, 1905 - August 31, 1905
81	81	September 5, 1905 - February 28, 1906
	81 Annex	November 24, 1905
82	82	March 1, 1906 - August 9, 1906

Most of the communications are original despatches, usually accompanied by enclosures. Some of the enclosures are original notes to the American representatives from officials of the Japanese foreign ministry. Other enclosures were written by American consuls in Japan and, occasionally, by private citizens of the United States. A considerable number of enclosures are copies of communications sent by American representatives to Japanese officials. Pamphlets, newspaper clippings, and other printed matter are sometimes enclosed.

Apart from numbered despatches and enclosures, these volumes contain many unnumbered letters, some of which are marked "Private" or "Confidential." Unnumbered or private letters, more informal than despatches, may report official matters requiring secrecy or not fully covered in the despatches, or may convey personal news, acknowledgments of appointment or recall, announcements of arrival or departure, and statements of official expenses. The volumes also contain telegrams and cables, which were not numbered.

The register to these despatches reproduced on Roll 1 of this microcopy consists of selected pages from a number of State Department registers, which, taken as a unit, comprise a register of these despatches from 1855 to 1906. These register volumes, in their entirety, record diplomatic despatches received by the Department of State from American legations throughout the world from 1789 to 1906. For the period beginning in 1870 the communications reproduced in this microcopy are registered, with those from representatives in other countries, in volumes that have been reproduced as the first 10 rolls of File Microcopy 17, State Department Registers of Correspondence.

In Record Group 59, General Records of the Department of State, in the National Archives there are several series of volumes containing additional material on the relations between Japan and the United States. Complementary to the diplomatic despatches are instructions from the Secretary of State to the diplomatic representatives of the United States accredited to Japan, 1855-1906, which have been reproduced on Rolls 104-108 of File Microcopy 77, Diplomatic Instructions of the Department of State. Additional records pertaining to the relations between the United States and Japan during the period covered by the present microcopy include the

communications ("Notes") exchanged between the Secretary of State and the diplomatic representatives of Japan in Washington. Related to these records, though less directly, are despatches to the Department of State from United States consuls at Nagasaki, 1860-1906 (File Microcopy 131), Kanagawa, 1861-1897 (File Microcopy 135), Yokohama, 1897-1906 (File Microcopy 136), and at Osaka, Hiogo, and Kobe, 1868-1906. All these series were discontinued on August 14, 1906, when the Department of State adopted the practice of filing incoming and outgoing correspondence, not of a routine nature, by subject in a single numerical case file. Correspondence on routine matters was placed in a "minor file." In 1910 this system was abandoned and the Department's present decimal system of subject classification adopted. The numerical case file, the "minor file," and the decimal file are in the National Archives through 1929.

Also in the National Archives, in Record Group 84, Records of the Foreign Service Posts of the Department of State, there are records kept by American diplomatic and consular posts. Although these post records duplicate to some extent the records that were kept in Washington, they supplement them importantly by providing detailed information about many transactions that were only summarized or were not reported on at all in the documents that were transmitted to Washington. File microcopies of these post records have not been made.

In this microcopy the ends of lines next to the binding have not always been reproduced by the camera; a reading of any lines thus affected will be provided upon request by the National Archives.

ROLL CONTENTS

The two volumes microcopied on this roll have the following backstrip titles:

"81 / Japan / Lloyd C. Griscom / September 1, 1905 / February 28, 1906 / 301 - 397 / Department / of State."

"81 / Annex / Japan / Huntington Wilson / November 24, 1905 / 344 / Department / of State."

The first volume contains communications, with related enclosures, to the Secretary of State from Lloyd C. Griscom, Envoy Extraordinary and Minister Plenipotentiary accredited to the Government of Japan, December 16, 1902; and from Huntington Wilson, Chargé d'Affaires ad interim.

The second volume consists of despatch 344, with related enclosures, from Huntington Wilson, Chargé d'Affaires ad interim. Preceding the despatch but relevant to it is a letter from United States Consul W. H. Abercrombie to the Governor of Nagasaki Ken, Japan, September 10, 1894.

Case

SOLICITOR'S OFFICE

TELEGRAM RECEIVED IN CIPHER.

Tel. Pauncefote to Sec. of State, Sept. 5, 1905

RESPECTFULLY REFERRED TO THE SOLICITORS.

From TOKIO,

Received Sept.5, 1905, 4: p.m.

DEPT OF STATE SEP 6 1905 ASST SECRETARY

Secretary of State,

Washington.

The naval authorities inform me that the steamer Montara was seized Nikolaievsk harbor, Kommaderski Islands, August 16th; that she was carrying provisions for the Russians from one port to another, presumably under contract with the Russian government, and that in these islands the Russian government does merchant's business and the Kamchatka Trading Company practically is the same as Russian government. The steamer detained Yokosuka naval station. Captain has had preliminary examination before the prize court and now is at Yokohoma. The decision is not yet announced.

GRISCOM.

INDEX BUREAU SEP 7 1905 FILED

...ered by the Chief Clerk's Office, Sept.5, 4:30 p.m.

Sept 9/05

5282

90 489

TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC
SEP 8 1905
BUREAU.

From Tokyo,

September 6, 1905.

Received 9.50 A. M., 7th.

ASSISTANT SECRETARY,
SEP 8 1905

Secretary of State,

Washington.

September 6, 1 P. M.

The military guard was withdrawn from the Legation at seven o'clock a. m., and now it has been replaced by a guard of eight soldiers. There is no rioting in the City this morning. In the riots yesterday three hundred rioters and two hundred police were injured. Most of the police stations were wrecked during the night. It appears the hostility of the mob was directed almost exclusively against the police. The anxiety of the [illegible] authorities about this Legation was largely because it lies between a police station and the residence of Marquis Ito. At eleven o'clock p. m. yesterday the crowd in front of the Legation was ill-natured, but was dispersed by the soldiers without difficulty.

GRISCOM

INDEX BUREAU
SEP 14 1905
FILED

Ciphered by the Chief Clerk's Office, 11 A. M.

Copy 9/11/32

TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC
SEP 8 1905
BUREAU.

From Tokyo,

September 6, 1905.

Received 10 A. M., 7th.

ASSISTANT SECRETARY,
SEP 8 1905

Secretary of State,

Washington.

September 6, 6 P. M.

Rioting renewed in Tokyo. The streets are being patrolled by troops. Two hundred and twenty soldiers have been placed in this Legation.

GRISCOM

INDEX BUREAU
SEP 14 1905
FILED

Ciphered by the Chief Clerk's Office, 10.50 A. M.

TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC
SEP 8 1905
BUREAU.

Sept 9/32

From TOKYO,

Received Sept.6, 1905, 10:00 a.m.

ASSISTANT SECRETARY,
SEP 8 1905

Secretary of State,

Washington.

Sept.5, 11:p.m.

Considerable rioting occurred in Tokyo to-day when the police endeavored to prevent mass meeting protesting against so-called humiliating terms of peace, police being obliged to use swords. Some severe injuries inflicted but without fatalities. Mob attacked the house of Home Minister and also set fire to part of the Foreign Office,and damaged premises of the pro-government newspaper. Three mobs, numbering about one thousand each, are now rioting through different districts destroying government property. The Government has been obliged to call out troops to assist police. A guard of fifty soldiers has been placed in this legation's compound and the number is now being increased to two hundred owing to the attitude of the crowd. I do not anticipate trouble here but will leave the matter of guards to the discretion of the authorities. Several foreigners have been stoned in the streets. The other legations are similarly guarded.

GRISCOM.

INDEX BUREAU
SEP 14 1905
FILED

Ciphered by the Chief Clerk's Office, Sept.6, 11:00 a.m.

TELEGRAM RECEIVED IN CIPHER

DIPLOMATIC
SEP 18 1905
BUREAU.

From Tokyo,

September 7, 1905.

Received 4.30 P. M.

Secretary of State,

Washington.

September 7, 12 M.

Rioting continued last night, and martial law proclaimed by an Imperial ordinance in the official gazette at eleven o'clock p. m. At the same time strict press regulations were promulgated. This military action appears to bring a quieter tendency. Legation guard undiminished.

GRISCOM

INDEX BUREAU
SEP 20 1905
FILED

Deciphered by the Chief Clerk's Office, 5.10 P. M.

TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC BUREAU SEP 11 1905

From TOKYO,

Received September 8, 1905, 6:20p.m.

ASSISTANT SECRETARY, SEP 11 1905

Secretary of State,

Washington.

September 8, 8 p.m.

Under strong military control order and quiet have been restored in Tokyo. Legation guard is reduced to eight soldiers.

GRISCOM.

INDEX BUREAU SEP 20 1905 FILED

Deciphered by the Chief Clerk's Office, September 9, 9:30 a.m.

Form No. 282.

TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC
SEP 18 1905
BUREAU.

From TOKYO,

Received September 8, 1905, 5:25a.m.

Secretary of State,

Washington.

September 7, 11 p.m.

Last night five christian churches, of which four were American, were wholly or partially destroyed by the rioters in Tokyo. In view of rumors of further destruction of christian church property, and upon the request of leading missionaries, I have addressed a note to the Japanese Government asking adequate protection. The Foreign Office has requested the military authorities to furnish the necessary guards.

There has been no rioting to-day.

GRISCOM.

INDEX BUREAU
SEP 20 1905
FILED

Deciphered by the Chief Clerk's Office,

Corp
9114

SOLICITOR'S OFFICE
SEP 1905

TELEGRAM RECEIVED.

DEPARTMENT OF STATE

SEP 8 3 52 PM 1905

From TOKIO, Sept. 8, 1905.

CHIEF CLERK'S OFFICE

NO. WR. 28

Sec-State,

Washington.

Shaeby D Hogan
my comm Sept 12

DIPLOMATIC
SEP 11 1905

Eighth. British Bark ANTIOPE captured north of Sagha[illegible] about August twenty-first alleged cargo food-stuffs and salt. Details cannot be ascertained until reaches port.

Griscom.

3.20P.M.

INDEX BUREAU
SEP 15 1905
FILED

cc.

UNITED STATES LEGATION,
TOKIO.

No. 301.

September 9, 1905.

RECEIVED
OCT
7
1905
DIPLOMATIC BUR. DEPT. OF STATE.

Amd Cor. C Fue 820

Mr. Griscom to Mr. Root.

INDEX BUREAU
OCT 11 1905
FILED

SUBJECT:-Supplementary Extradition Treaty with Japan.
Japanese Government still strongly opposed to definition of bribery appearing in treaty.

C

CHIEF CLERK,
OCT - 4 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

No. 301. September 9, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

Referring to the Department's Instruction No. 128, of June 7, 1905, I have now the honor to report that, in compliance therewith, I brought the matter to the attention of the Foreign Office and suggested that bribery could be defined as "the offering, giving or receiving of bribes, made criminal "by the laws of both countries."

I am in receipt of a verbal reply to the effect that the Japanese Government is still strongly opposed to a definition of bribery appearing in the proposed treaty.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

Form No. 282.

TELEGRAM RECEIVED IN CIPHER.

ASSISTANT SECRETARY.
SEP 12 1905

From TOKYO,

Received Spetember 10, 1905, 9:55 p.m.

Secretary of State,

Washington.

DIPLOMATIC BUREAU SEP 14 1905

FILED SEP 20 1905 BUREAU

September 10, 11:p.m.

The violence to a few foreigners and attacks on Christian churches reported in my previous telegrams should not be considered to indicate any general anti-foreign or anti-Christian feeling. The former was quite incidental and the latter due to sporadic antagonism to the Russian church and some native Christians. The mob offered to spare one American church if the minister could show an American flag. Unfortunately he could not. Newspapers have, during many months, raised popular expectations so high that intense dissatisfaction with the terms of peace resulted. Sentiment among army, navy and nobility, however, is understood to be more conservative. Six Tokyo newspapers have been suspended, the chief of police has been changed and a change of cabinet will doubtless occur when Baron Komura returns and the Diet meets. Martial law probably will continue for some time thus insuring quiet. Meanwhile the legation guard of twelve soldiers will continue.

Deciphered by the Chief Clerk's Office,

GRISCOM.

SOLICITOR'S OFFICE
SEP 11 1905

TELEGRAM RECEIVED.

BUREAU
REC'D.
SEP
1905
OF STATE

2. P. KE. WR. 35 U.S.G. *From* TOKIO, September 10, 1905.

10.55 A. M.

Sec-State,

Washington.

To Butler, Not
many Wyndeare,
and
To Bristow
Gyory, Sept. 12

DIPLOMATIC
SEP 11 1905
BUREAU.

Steamship AUSTRALIA seized August thirtieth at PETROPAVLOSK preliminary judicial examination Yokosuka prize court September first trial about October second cargo provisions alleged destined for Russian Government. Captain and crew now in Yokohama.

Griscom.

INDEX BUREAU
SEP 14 1905
FILED

9/6
9/11

From B. Norman 3 Wyndeare
2

Form No. 282

DIPLOMATIC BUREAU SEP 16 1905

TELEGRAM RECEIVED IN CIPHER.

ASSISTANT SECRETARY, SEP 15 1905

From TOKYO,

Received September 11, 1905, 3:40 p.m.

Secretary of State,

Washington.

Request leave of absence thirty days to go Seoul, Peking, returning about October 10th when Diet meets.

GRISCOM.

Falmouth

INDEX BUREAU SEP 16 1905 FILED

Deciphered by the Chief Clerk's Office, Sept.11, 4:10 p.m.

Japan

POSTAL TELEGRAPH COMMERCIAL CABLES

CLARENCE H. MACKAY, PRESIDENT.

459

CABLEGRAM

REGISTERED TRADE-MARK. DESIGN PATENT No. 26369.

The Postal Telegraph-Cable Company (Incorporated) transmits and delivers this message subject to the terms and conditions printed on the back of this blank.

ASSISTANT SECRETARY,
SEP 12 1905

NUMBER 9. SENT BY CB. REC'D BY GS. CHECK 243am. 12. U. S. G.

Received at

Tokio. Sept 11th'05

(WHERE ANY REPLY SHOULD BE SENT.)

From

190

Secstate,

Washington:-

copy to Butler Norman & Migr. dered Sept. 15

Underwriters of Australia have engaged Counsel Owners fully advised

Griscom.

DIPLOMATIC BUREAU SEP 14 1905

DEPARTMENT OF STATE
SEP 11 9 11 AM 190
CHIEF CLERK'S OFFICE

INDEX BUREAU SEP 21 FILED

Japan

POSTAL TELEGRAPH COMMERCIAL CABLES

CLARENCE H. MACKAY, PRESIDENT.

348

CABLEGRAM

REGISTERED TRADE-MARK. DESIGN PATENT No. 26369.

The Postal Telegraph-Cable Company (Incorporated) transmits and delivers this message subject to the terms and conditions printed on the back of this blank.

DIPLOMATIC BUREAU

ASSISTANT SECRETARY,
SEP 16 1905

NUMBER 109 SENT BY Cb Z. REC'D BY 9 U.S.G. CHECK 11:20 p.m. Sept. 11th, '05.

Received at

From Tokio.

(WHERE ANY REPLY SHOULD BE SENT.)

190

Secstate,

Washington.

Request Sixty Days Leave Minister Approves Laughlin.

DEPARTMENT OF STATE
SEP 12 9 22 AM 190
CHIEF CLERK'S OFFICE

INDEX BUREAU SEP 21 1905 FILED

No Inquiry respecting this message can be attended to without the production of this paper. *Repetitions of doubtful words should be obtained through the Company's offices, and not by DIRECT application to the sender.*

POSTAL TELEGRAPH-CABLE COMPANY IN CONNECTION WITH THE COMMERCIAL CA

CLARENCE H. MACKAY, President.
J. O. STEVENS, Sec'y. WM. H. BAKER, V. P. & G. M.

CLARENCE H. MACK
ALBERT BECK, Sec'y. GE

N. B.—BOTH SIDES OF THIS FORM ARE PROTECTED AGAINST INFRINGEMENTS AND IMITATIONS BY DESIGN PATENT No. 36369 AND REGISTERED T

THE POSTAL TELEGRAPH-CABLE COMPANY,
(INCORPORATED)

transmits and delivers the within message subject to the following

TERMS AND CONDITIONS.

THIS COMPANY may decline to forward any message, though it has been accepted for transmission, but in case of so doing, shall refund to the sender the amount paid for its transmission.

THIS COMPANY WILL NOT ASSUME ANY RESPONSIBILITY IN RESPECT TO ANY MESSAGE BEYOND THE TERMINUS OF ITS OWN LINES.

To guard against mistakes or delays, the sender of a message should WRITE IT LEGIBLY and order it REPEATED; that is, telegraphed back to the sending station for comparison. For such repeating, an additional charge of one-quarter the regular rate will be made.

It is agreed between the sender of the message on the face hereof, and this Company, that said Company shall not be liable for mistakes or delays in transmission or delivery, or for non-delivery, or mis-delivery, of any unrepeated message beyond the amount of that portion of the charge which may or shall accrue to this Company out of the amount received from the sender for this, and the other companies, by whose lines such message may pass to reach its destination; and that this Company shall not be liable for mistakes in the transmission or delivery, or for non-delivery, or mis-delivery, of any repeated message beyond fifty times the extra sum received by this Company from the sender for repeating such message over its own lines.

This Company is hereby made the agent of the sender without liability to forward any message by the lines of any other company to reach its destination.

This Company shall not be responsible for messages until they are presented and accepted at one of its transmitting offices; if a message be sent to such office by one of the Company's messengers, the messenger acts for that purpose as the agent of the sender; if by telephone, the person receiving the message acts therein as the agent of the sender, and is authorized to assent to these conditions on behalf of the sender.

This Company shall not be liable in any case where the claim is not presented in writing within sixty days after the filing of the message.

This Company shall not be liable in any case for delays arising from interruptions to the working of its lines, nor for errors in cipher or obscure messages.

This is an UNREPEATED message and is delivered by request of the sender under the conditions named above.

WILLIAM H. BAKER, V. P. and Gen'l Manager. JOHN O. STEVENS, Secretary. CLARENCE H. MACKAY, President.

CLARENCE H. MACKAY, President.
J. O. STEVENS, Sec'y. WM. H. BAKER, V. P. & G. M.

CLARENCE H. MACKA
ALBERT BECK, Sec'y. GEO

N. B.—BOTH SIDES OF THIS FORM ARE PROTECTED AGAINST INFRINGEMENTS AND IMITATIONS BY DESIGN PATENT No. 36369 AND REGISTERED TR

THE POSTAL TELEGRAPH-CABLE COMPANY,
(INCORPORATED)

transmits and delivers the within message subject to the following

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This Company is hereby made the agent of the sender without liability to forward any message by the lines of any other company to reach its destination.

This Company shall not be responsible for messages until they are presented and accepted at one of its transmitting offices; if a message be sent to such office by one of the Company's messengers, the messenger acts for that purpose as the agent of the sender; if by telephone, the person receiving the message acts therein as the agent of the sender, and is authorized to assent to these conditions on behalf of the sender.

This Company shall not be liable in any case where the claim is not presented in writing within sixty days after the filing of the message.

This Company shall not be liable in any case for delays arising from interruptions to the working of its lines, nor for errors in cipher or obscure messages.

This is an UNREPEATED message and is delivered by request of the sender under the conditions named above.

WILLIAM H. BAKER, V. P. and Gen'l Manager. JOHN O. STEVENS, Secretary. CLARENCE H. MACKAY, President.

AMERICAN LEGATION,

TOKYO.

No.302. September 11,1905.

RECEIVED
OCT 5 1905
DIPLOMATIC BUR. DEPT. OF STATE.

ASSISTANT SECRETARY,
OCT 5 1905

CHIEF CLERK,
OCT - 4 1905
Department of State.

MR. GRISCOM TO MR. ROOT.

INDEX BUREAU
OCT 10 1905
FILED

SUBJECT: Miss Beatrice Bavauda's claim for property left at Port Arthur;--Minister for Foreign Affairs reports that no such property can be found.

UNITED STATES LEGATION,
TOKIO.

No. 302. September 11, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to my dispatch No. 207 of March 13, 1905, in regard to the property which Miss Beatrice Bavauda claims to have left at Port Arthur in March 1904, I have the honor to transmit herewith enclosed for the further information of the Department, a copy of a note which I have just received from the Minister for Foreign Affairs touching this matter.

Count Katsura informs me that he is in receipt of a report from the Port Arthur authorities through the Minister of War, to the effect that upon examination of the house in which Miss Bavauda deposes her property was stored, no articles which could be identified as those mentioned in her affidavit could be discovered.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

ENCLOSURE: Count Katsura to Mr. Griscom, September 9, 1905,-copy-

ENCLOSURE WITH MR. GRISCOM'S NO. 302 OF SEPTEMBER 11, 1905.

COPY.

Translation.

NO. 52. Department of Foreign Affairs,
Tokio, September 9, 1905.

His Excellency
Lloyd C. Griscom,
&c., &c., &c.

Monsieur le Ministre,

With reference to Baron Komura's Note No. 16 of the 14th March and the memorandum of this Department dated the 25th August last concerning the property which Miss Beatrice Bavauda, an American citizen, alleges to have left at Port Arthur I now have the honor to further inform Your Excellency that I am in receipt of a communication from the Minister of War stating that he has just received a report from the competent military authorities at Port Arthur to the effect that upon examining the house considered to be the residence of Sydrosky(?), a Russian subject, located near the Barrack of the 9th Regiment in the New Town to which house Miss Bavauda states in her affidavit made in the presence of Acting Vice Consul General enclosed in Your Excellency's Note No. 121 of the 3rd March 1905, to have removed her property and personal effects, they found that the residence consists of a house and an accessory building and that the rooms of the accessory building, mentioned in the aforesaid affidavit as an unoccupied house constituting a part of the residence, in which the things are stated in the last

paragraph

paragraph of the aforesaid affidavit to have been stored were all empty and no such articles as could be identified as those stored up could be discovered in the house.

I avail, &c.,

Signed: Count Katsura Taro,

Minister for Foreign Affairs.

AMERICAN LEGATION,

TOKYO.

RECEIVED
OCT 16 1905
DIPLOMATIC BUR. DEPT. OF STATE

CONSULAR BUREAU
OCT 13 1905
DEPARTMENT OF STATE

NO.303. September 11,1905.

Aug. Oct. 20

ASSISTANT SECRETARY,
OCT 12 1905

MR. GRISCOM TO MR. ROOT.

CHIEF CLERK,
OCT - 4 1905
Department of State.

J. C. Clifford Oct. 14/05
Action taken in accordance with recommendation of Chief of Bureau
for the Secretary of State
J. M. Jones

INDEX BUREAU
OCT 20 1905
FILED

SUBJECT: Mr. Henry Marco's mining claim on Kwantung Peninsula; Minister for Foreign Affairs reports that this property cannot be identified.

UNITED STATES LEGATION,
TOKIO.

No. 303. September 11, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to my dispatch No. 241 of April 26, 1905, in regard to Mr. Henry Marco's mining claim on the Kwantung Peninsula, I have the honor to transmit herewith enclosed, for the Department's information, a copy of a note which I have just received from the Minister for Foreign Affairs touching this matter.

Count Katsura informs me that an inquiry has been made through the proper authorities at Port Arthur but that in spite of their endeavors it has been found impossible to identify Mr. Marco's property, owing to the non-existence of the Port Arthur Notary Public's Register for 1903, and to the uncertainty of the position of the building and property alleged to have existed in the Liaoti range of mountains.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

ENCLOSURE:-copy- Count Katsura to Mr. Griscom, September 8, 1905.

UNITED STATES LEGATION,
TOKIO.

No. 303. September 11, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to my dispatch No. 241 of April 26, 1905, in regard to Mr. Henry Marco's mining claim on the Kwantung Peninsula, I have the honor to transmit herewith enclosed, for the Department's information, a copy of a note which I have just received from the Minister for Foreign Affairs touching this matter.

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I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

ENCLOSURE:-copy- Count Katsura to Mr. Griscom, September 8, 1905.

ENCLOSURE WITH MR. GRISCOM'S NO.303 OF SEPTEMBER 11, 1905.

COPY.

Translation.

No.51. Department of Foreign Affairs,
Tokio, September 8, 1905.

His Excellency
Lloyd C. Griscom,
&c., &c., &c.

Monsieur le Ministre,

Referring to my note No.22 of the 15th April last in which I have had the honor to reply to Your Excellency with reference to the mining property in the Liaoti range of mountains on Kwantung Peninsula which Mr. Henry Marco, an American citizen, alleges to have purchased of Michael Venedictov, a Russian subject. I now have the honor to further inform you that I am in receipt of a communication from the Minister of War stating that having caused an inquiry to be made through the proper authorities at Port Arthur he has just received a report from them to the effect that in spite of all their endeavours they found it utterly impossible to identify the aforesaid property owing to non-existence of the Register for 1903 of the Notary Public at Port Arthur and to the uncertainty of the position of the building and property alleged to have existed in the Liaoti range.

I avail, &c.,

Signed: Count Katsura Taro,
Minister for Foreign Affairs.

UNITED STATES LEGATION,
TOKIO.

No. 304.

September 11, 1905.

ASSISTANT SECRETARY,
OCT 5 1905

Mr. Griscom to Mr. Root.

CHIEF CLERK,
OCT -4 1905
Department of State.

SUBJECT:-Steamship "Australia" seized by Japanese cruiser and held for action of Prize Court.

Confirms telegrams interchanged September 7, 10, and 11, 1905.

MAILED BUREAU
OCT 4 1905
FILED

UNITED STATES LEGATION,

No. 304. TOKIO, September 11, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm the Department's two telegrams, received by me September 7 and 10, 1905, which, deciphered, read:

"Griscom, American Minister, Tokyo.

"Report concerning capture of steamer Australia "property Oceanic Steamship Company taking proper measures "safeguard owners' interests.

"Loomis."

and

"Griscom, American Minister, Tokyo.

"Please report on capture steamship Australia.

"Loomis."

and my telegrams to the Department, of September 10 and 11, 1905, as follows:

"Secstate, Washington.

"Steamship Australia seized August 13 at Petro- "paulovsk. Preliminary judicial examination Yokosuka Prize "court September 1. Trial about October 2. Cargo provis- "ions alleged destined for Russian Government.

"Griscom."

and

and

"Secstate, Washington.

"Underwriters of Australia have engaged counsel. Owners fully advised.

"Griscom."

From information furnished me by Consul General Miller, the master of the vessel, and the Japanese Navy Department, it appears that she belongs to J. D. Spreckels and Company, of San Francisco, where, under a four months' charter to a Russian company, she shipped her crew and loaded with provisions and gunpowder. At Petropaulovsk she discharged fifty cases of gunpowder and, thereafter, while lying in that harbor, she was seized by the Japanese cruiser "Suma. A prize crew took her to Yokosuka, where a preliminary examination was held by the Prize Court. The trial of the libel against her will take place about October 2, 1905.

Since her arrival at Yokosuka the crew has been turned over by the Japanese Authorities to Consul General Miller, who, together with her master, has been in correspondence with the owners.

The owners appear to have abandoned the ship to the underwriters, whose agents at Yokohama have engaged the services of Mr. N. W. McIvor as counsel.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

AMERICAN LEGATION,

No. 305. TOKIO, September 11, 1905.

Mr. Griscom to Mr. Root.

CHIEF CLERK,
OCT -4 1905
Department of State.

SUBJECT:-Steamship "Montara" seized by Japanese cruiser and held for action of Prize Court.

Confirms telegrams interchanged September 3 and 5, 1905.

RECEIVED
OCT
DIPLOMATIC BUR. DEPT. OF STATE

INDEX BUREAU
OCT 21 1905
FILED

AMERICAN LEGATION,

No. 305. TOKIO, September 11, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm, as appended hereto on the overleaf, the interchange of telegrams between the Department and this Legation, relative to the seizure of the American steamship "Montara."

Immediately upon the receipt of the Department's telegram I made inquiry at the Japanese Navy Department where I learned that the "Montara was seized by a Japanese cruiser in Nikolaievsk Harbor, Kommondorski Islands, August 16, 1905; that she was then engaged in carrying provisions for the Russians from one port to another, presumably under contract with the Russian Government; that in those islands the Russian Government carries on the business of merchants; and that the Kamchatka Trading Company, to whom the vessel was consigned, is considered to be practically the same as the Russian Government.

The vessel is now detained at the Yokosuka Naval Station, awaiting trial before the Prize Court. Her captain has had a preliminary examination and is now at Yokohama. Consul General Miller informs me that the owners of the vessel have been advised by cable of the situation and that Mr.

N.

N. W. McIvor has been engaged as counsel in behalf of the ship and cargo.

I have the honor to be,

Sir,

Your obedient servant,

Lyon Cuicum.

COPY OF TELEGRAM RECEIVED from the Department September 3, 1905:

"American Legation, Tokio.

"Department has received protest from Pacific Steam "ship Company against alleged seizure by Japanese of steamer "Montara. Vessel was chartered to Kamchatka Commercial Com- "pany for voyage to sealing stations of Kamchatka and not en- "gaged in carrying contraband. Ascertain and report the fac "in the case, where the ship is now located and the whereabou "of her captain.

"Adee."

COPY OF TELEGRAM SENT to the Department September 5, 1905:

"Secstate, Washington.

"The Naval Authorities inform me that the steamer "Montara was seized Nikolaievsk Harbor, Kommondorski Islands, "August sixteenth; that she was carrying provisions for the "Russians from one port to another, presumably under contract "with the Russian Government; and that in these islands the "Russian Government does merchants business; and the Kamchat- "ka Trading Company practically is the same as Russian Govern "ment. The steamer detained Yokosuka Naval Station. Cap- "tain has had preliminary examination before Prize Court and "now is at Yokohama. The decision is not yet announced.

"Griscom."

TELEGRAM RECEIVED IN CIPHER

ASSISTANT SECRETARY, SEP 15 1905

DIPLOMATIC BUREAU. SEP 16 1905

From TOKYO,

Received September 13,1905, 9:20am.

Secretary of State,

Washington.

Sept.13, 1p.m.

Considerable rioting occurred last night in Yokohama. Ten police stations were destroyed. Troops have been sent from Tokyo and quiet restored.

GRISCOM.

INDEX BUREAU SEP 16 1905 FILED

...phered by the Chief Clerk's Office, Sept.13, 10:00 a.m.

R.C.

TELEGRAM RECEIVED IN CIPHER

ASSISTANT SECRETARY, SEP 15 1905

DIPLOMATIC BUREAU. SEP 18 1905

From TOKYO,

Received September 13,1905, 9:20am.

Secretary of State,

Washington.

Sept.13, 1p.m.

Considerable rioting occurred last night in Yokohama. Ten police stations were destroyed. Troops have been sent from Tokyo and quiet restored.

GRISCOM.

INDEX BUREAU SEP 18 1905 FILED

Deciphered by the Chief Clerk's Office, Sept.13, 10:00 a.m.

Ed. Dep. Bureau Ack + file Bills

TELEGRAM RECEIVED IN CIPHER.

ASSISTANT SECRETARY,
SEP 15 1905

From TOKYO,

Received September 15, 1905, 6:40 a.m.

DIPLOMATIC
SEP 15 1905
BUREAU.

Secretary of State,

Washington.

My request leave of absence withdrawn.

GRISCOM.

INDEX BUREAU
SEP 20 1905
FILED

hered by the Chief Clerk's Office, September 15, 9:40 a.m.

DIPLOMATIC BUR. DEPT. OF STATE
OCT 7 1905

No. 306.

Copy sent to the President as per direction of Mr. Loomis. (W.R.H.)

AMERICAN LEGATION,
Tokio, September 15, 1905.

Secretary of State,
OCT 6 1905

CHIEF CLERK
OCT - 5 1905
Department of State.

ASSISTANT SECRETARY,
OCT 5 1905

Mr. Griscom to Mr. Root.

Tokio Oct. 13 1905

Subject:--Disturbances in Japan arising from popular dissatisfaction with the peace terms.

CHIEF CLERK,
OCT - 1 [illegible]
Department of State.

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INDEX BUREAU
OCT 11 1905
FILED

UNITED STATES LEGATION,

TOKIO.

No. 306 September 15, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to send herewith enclosed copies of a series of telegrams addressed by me to you on the 5th, 6th, 7th, 8th, 10th and 13th instant in relation to the recent riots in Tokio and Yokohama.

As nearly as can be ascertained the cause of the riots and the circumstances leading thereto were somewhat as follows:- Shortly after the peace delegates at Portsmouth reached an agreement the news was made public and the alleged terms gradually became known, principally through the medium of the recognized Government newspaper organ called the "Kokumin". The news of the important concessions made by Japan spread like wild-fire throughout the Empire and was received with amazement and intense disappointment. The unparalleled series of naval and military victories had encouraged the Japanese public to believe that Japan would surely be able to conclude peace on very advantageous terms. A large section of the press demanded, and confidently expected, the cession of Vladivostock and the Russian maritime provinces, as well as the island of Saghalien, and the payment of a thousand million dollars indemnity. Even the more reasonable and conservative classes expected the cession of Saghalien and five hundred million dollars indemnity. It may be truthfully said that outside of the Government nobody in the Empire expected that Japan would

would be obliged to accept the terms which it is now understood are contained in the Treaty of Peace.

It would be hard to exaggerate the disappointment and rage of the Japanese public on receipt of the news of the terms. A wave of indignation and anger against the Government spread with lightning rapidity throughout the country. The Government declined to make an official statement as to what were the actual terms and in consequence doubt and uncertainty contributed to the anger of the public. The newspapers with the sole exception of the aforementioned Government organ were unanimous in declaring that the terms were unsatisfactory and humiliating. The more radical and irresponsible section of the press at once began a campaign against the Government which was characterized by every kind of abuse and vilification, and no little scurrilous obscenity. The lowest papers of all openly suggested that only the death of the responsible parties could satisfy the public, and threats of assassination were more than implied. The papers furthermore demanded that the present Ministry should resign and called upon the public to unite in demonstrations to prevent the ratification of the so-called humiliating Treaty of Peace.

The newspapers were thoroughly successful in arousing the populace to a state of excitement. A mass meeting was called by the leading agitators to take place on the afternoon of September 5th in Hibiya Park, which is located in the centre of Tokio about a quarter of a mile from this Legation. The Chief of Police, anticipating trouble, issued orders that the meeting should not take place and directed that barricades should be erected to prevent the public from entering Hibiya Park. The mob arrived on the scene and became greatly incensed at the police interference, and at sight of the barricades they

swept

swept the police aside, tore down the obstructions and surged into the Park, where an excited meeting was held and indignant resolutions criticising the Government and Police were passed. It so happens that directly across the street from the main entrance to Hibiya Park is situated the official residence of the Minister for Home Affairs, who is the immediate superior of the Chief of Police. Many injuries had already been inflicted by the Police on the crowd and the latter determined to revenge themselves by destroying the residence of the Home Minister. The mob adjourned from the Park to the neighborhood of the Home Minister's house and undertook at once to break down the garden walls and set the house on fire. A large police force endeavored to interfere and much fighting occurred. The mob was successful in tearing down some of the walls and partially burning the house of the Minister's Secretary, which was in the same compound. The police became helpless and it was only the timely arrival of soldiers that prevented the total destruction of the house. The mob had a wholesome respect for the soldiers and made no attempt to oppose them.

Prevented from doing further mischief at this point the mob now separated into three or four large bodies and went off in different directions destroying the police stations throughout the city. One group of rioters visited the office of the "Kokumin" and attempted unsuccessfully to burn it. Before morning some twenty-three police sub-stations, which are called police boxes, had been destroyed and two or three of the central police stations had also been wholly or partially destroyed.

It happened that on the evening of this day I was at the official residence of Baron Sone, the Minister of Finance, at a dinner given in honor of Mr. E. H. Harri-

man and a party of distinguished Americans who had been for some days my guests at this Legation. Two of Mr. Harriman's party, while on their way from the hotel to Baron Sone's house, were attacked by the mob and stoned. One of them, Doctor Lyle, received a stone in the back of his head which inflicted upon him a slight injury. We were obliged by the authorities to remain in the Minister's house until soldiers could be brought from the Ministry of War, and at about eleven o'clock we were marched home with our carriages surrounded by a military escort. Shortly before we reached this Legation one member of our party, Mr. Schwerin, was assaulted by the crowd and one of the men pulling his jinricksha was knocked down. Mr. Schwerin succeeded in making his way through the crowd without receiving any injury. As our carriages passed through the crowd there was some hooting but no stone throwing. A guard of twenty-five soldiers was kept at the Legation and I discovered that a mob numbering a thousand or more was gathered in front of the Legation and was apparently in a very riotous frame of mind. Directly across the street from one of the gates of this Legation is situated a police sub-station and it appears that this mob was collected, not to make a demonstration against this Legation, but with the sole purpose of destroying the police station and had lit a small bonfire from which to fire the building. The officer commanding our guard became very anxious about the safety of the Legation owing to the size of the mob and telephoned for twenty-five more soldiers. After the guard had thus been increased to fifty he was still anxious and telephoned again for two hundred men. When these soldiers arrived they cleared the street in front of the Legation with their bayonets fixed and from that time

throughout

throughout the night we had no further disturbance. We could see many fires throughout the city and a police box within five hundred yards of the Legation was burned, but our immediate vicinity remained peaceful.

The following morning at seven o'clock the military guard was withdrawn from the Legation but was almost immediately replaced by eight other soldiers. There was no rioting in the city during the morning. In the afternoon, however, the rioting was renewed in many places in the city and our guard of two hundred and twenty soldiers was replaced. The Captain of the guard told me the anxiety of the authorities about our compound was largely due to the fact that it is situated between the house of Marquis Ito and the aforementioned police station. A large force ~~xxx~~ of troops was called out and patrolled the streets but in spite of this the rioters were successful in doing considerable damage throughout the city. A great number of police boxes and stations were destroyed and five Christian churches, of which four were American, were wholly or partially destroyed. On the evening of the same day, September 6th, the authorities thought it better to place the city under martial law, and as a result of the strict military control the rioting ceased and complete quiet was restored in the city.

The following day Bishop Harris, of the American Methodist Episcopal Church, and several other missionaries called upon me in great anxiety about their church and school property in view of the destruction of Christian churches by the mob the previous night. They informed me that the Japanese members of their churches were confident that there would be further destruction of churches and they even specified certain schools which were considered to be in imminent danger of being burned that night. They

stated

stated that they had applied to the police for protection and were informed by the latter that they doubted their ability to protect them. They therefore requested me to inform the Japanese Government of their condition and to secure them adequate protection. In view of these statements and various other rumors which reached me, I deemed it advisable to bring the matter to the attention of the Japanese Government and therefore addressed to His Excellency Count Katsura, the Acting Minister for Foreign Affairs, a note, copy of which is enclosed herewith, setting forth these facts and requesting adequate protection for the properties specified, as well as for other similar property which might possibly be the object of attack. In reply to this I received a verbal message from the Vice-Minister for Foreign Affairs stating that the military authorities would be requested to give the necessary guards. On September 8th, the city being entirely quiet, the Legation guard was reduced to eight soldiers, and on the 9th instant the military authorities increased this to thirteen and informed me that this number would remain for the present as a permanent guard of the Legation and asked me to provide quarters for them. Since that date there has been no further rioting in Tokio.

The example of rioting set by the capital has hitherto not been generally followed by the other cities of Japan. However, some disturbance occured in Kobe, where the crowd pulled down a statue of Marquis Ito from its pedestal and dragged it throughout the city by means of a rope tied to its neck. During the night of the 12th instant a more serious riot took place in Yokohama. Ten police boxes were destroyed and two train loads of soldiers were hurriedly dispatched from Tokio. The soldiers have since been kept there and the principal points in the city are under military guard.

It

It is generally understood that the city of Tokio will continue under martial law until the meeting of the Diet, which will occur about October 10th. As far as can be ascertained the intention of the present Ministry is to cause the Treaty to be ratified shortly after Baron Komura's return and then, having made an explanation of the whole matter to the Diet, the resignation of the Ministers will be tendered. The resignation of this Ministry will in all likelihood put an end to the public clamor and thus remove all necessity for martial law.

The first impression made on the minds of foreigners here by the burning of the christian churches and the attacks by the mob on individual foreigners passing through the streets was that the attitude of the mob was taking a distinctly anti-foreign and anti-christian turn, and Americans in particular seemed liable to be unpopular owing to the conspicuous part played by President Roosevelt in brining about the peace negotiations. I received several anonymous letters and one of them stated that the mob would shortly visit this Legation, sarcastically giving as their reason their wish to express appreciation for the part the President had played in depriving Japan of the fruits of the war. It was reported to me from one source that mutilated photographs of the President were being handed around among the mob. The anxiety of the authorities themselves as to the safety of the Legations was evident from the fact of their placing as many as two hundred and twenty soldiers in this, and similar numbers in other Legations. On the 7th instant when I went to the Palace to deliver to the Emperor the President's message reported in the Legation's No. 308 of this date, I was obliged, rather against my will, to accept an escort of three mounted police, who rode two in front and one behind my carriage.

This Legation was made particularly conspicuous at the moment by the fact stated above that I had as my guest Mr. E. H. Harriman and twelve or more prominent American citizens. The Japanese Government officials and the leading bankers and merchants of Tokio were, at the outbreak of the riots, just beginning a series of entertainments in honor of Mr. Harriman. At each of these entertainments three or four members of the Cabinet were present and the interest of the public press in Mr. Harriman's visit being very considerable, the Legation received an amount of publicity which was unfortunate at the moment. On the afternoon of September 6th one of the smaller Tokio newspapers, the Miyako Shimbun, published an extra whose headlines were "Count Katsura, the Prime Minister, at the American Legation". The extra went on to say that Count Katsura was being entertained at a supper party at this Legation together with several members of the Cabinet, but it allowed the inference to be drawn that these gentlemen were seeking American protection.

It has since proved that the fears which were entertained as to the anti-foreign and anti-christian tendencies of the mob, although not groundless, need only be momentary. I have made a careful investigation as to the circumstances of the riot and it seems to be quite clear that the actions of the mob should not be considered as indicating any anti-foreign or anti-christian feeling. Such attacks as were made on the foreigners in the streets were merely incidental to street riots and the attacks on the christian churches were due to spasmodic antagonism to the Russian Greek Church and to a few native christians. The custodian of St. John's Episcopal church in Asaksa, one of those which was attacked and gutted, reports that he

parleyed

parleyed with the mob and that they offered to spare the church if he could produce an American flag as proof of the church's nationality. He hunted throughout the church and was unfortunately unable to find a flag, whereupon the mob said he was trying to deceive them and proceeded to their work of destruction. I have received several letters, both anonymous and signed, in Japanese expressing sincere regret that any Americans should be subjected to indignities in Japan after the friendly attitude of the American Government and the splendid way in which the President had come forward to put an end to this sanguinary war. The unpopularity of Japanese christians in some districts of Tokio is sufficient to account for special hostility to their churches. This unpopularity is due largely to the fact that they do not contribute to the local street fairs and to the temples of their neighborhood. They are also said to be active in trying to prevent the sale of spirituous liquors and to have preached against the present war.

It is not necessary to search far for the real cause of the riots and the influences which were at work upon the people. Ambitious politicians and sensational newspapers combined to inflame the imagination of the masses and raise to impossible heights their expectations as to what would be the fruits of victory. The mouths of the Government were closed. During the negotiations it was obviously impossible for them to make explanations. There has been no calm discussion of the logical results of the war, and with the exception of the Government organ, no newspaper has made a move to disturb the popular dream. When the enraged and discontented public attempted to voice their feelings in a public meeting, the police, with what is universally admitted to have been extreme bad judgement, interferred to prevent the meeting. The anger of the mob centered upon the police and during the ensuing dis-

trubances

turbances and confusion innocent people and innocent institutions suffered considerable damage. Foreigners came in for a share which their conspicuousness invited. As stated before, the injuries sustained by foreigners were slight and purely incidental.

The riots have had particular interest to the world at large for not only have foreigners been to some extent concerned, but they have had an opportunity of studying the political and social institutions of Japan under the strain of trying times. It is only in such crises as these that the veil of oriental inscrutability is momentarily lifted and the foreign observer enabled to gain a brief glimpse of the operation of Japanese mental process and the well-spring of their emotions.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

Enclosures:

No. 1 - Copies of telegrams of September 5, 6, 7, 8, 10 and 13.

No. 2 - Mr. Griscom to Count Katsura September 7, 1905.

Enclosure No. 1 with Mr. Griscom's No. 306, September 15, 1905.

Telegram sent September 5, 11 P.M.

Secstate Washington

September 5, 11 P.M. Considerable rioting occured in Tokyo today when the police endeavored to prevent mass meeting protesting against so called humiliating terms of peace, Police being obliged to use swords. Some severe injuries inflicted but without fatalities. Mob attacked the house of Home Minister and also set fire to part of the Foreign Office and damaged premises of the pro Government newspaper. Three mobs numbering about one thousand each are now rioting through different districts destroying Government property. The Government has been obliged to call out troops to assist police. A Guard of fifty soldiers has been placed in this Legation's compound and the number is now being increased to two hundred owing to the attitude of the crowd. I do not anticipate trouble here but will leave the matter of guards to the discretion of the authorities. Several foreigners have been stoned in the streets. The other Legations are similarly guarded.

Griscom.

Telegram sent September 6, 1 P.M.

Secstate Washington.

September 6, 1 P.M. The military guard was withdrawn from the Legation at seven o'clock A.M. and now it has been replaced by a guard of eight soldiers. There is no rioting in the city this morning. In the riots yesterday three hundred rioters and two hundred police were

injured

injured. Most of the police stations were wrecked during the night. It appears the hostility of the mob was directed almost exclusively against the police. The anxiety of the authorities about this Legation was largely because it lies between a police station and the residence of Marquis Ito. At eleven o'clock P.M. yesterday the crowd in front of the Legation was ill natured but was dispersed by the soldiers without difficulty.

Griscom.

Telegram sent September 6, 6 P.M.

Secstate Washington

September 6, 6 P.M. Rioting renewed in Tokyo. The streets are being patrolled by troops. Two hundred and twenty soldiers have been placed in this Legation.

Griscom.

Telegram sent September 7, Noon.

Secstate Washington

September 7, Noon. Rioting continued last night and martial law proclaimed by an Imperial Ordinance published in the official gazette at eleven o'clock P.M. At the same time strict press regulations were promulgated. This military action appears to bring a quieter tendency. Legation guard undiminished.

Griscom.

Telegram sent September 7, 1905.

Secstate, Washington. September 7, 1905, 11 P.M.

Last night five Christian churches, of which four were American, were wholly or partially destroyed by the rioters in Tokyo. In view of rumors of further destruction of Christian church property and upon the request of leading missionaries I have addressed a note to the Japanese Government asking adequate protection. The Foreign Office has requested the Military authorities to furnish the necessary guards. There has been no rioting today.

Griscom.

Telegram sent September 8, 1905.

Secstate, Washington. September 8, 1905, 8 P.M.

Under strong Military control order and quiet have been restored in Tokyo. Legation guard is reduced to eight soldiers.

Griscom.

Telegram sent September 10, 11 p. m.

Secstate, Washington.

September 10, 11 p. m. The violence to a few foreigners and attacks on Christian churches reported in my previous telegrams should not be considered to indicate any general anti-foreign or anti-Christian feeling. The former was quite incidental, and the latter due to sporadic antagonism to the Russian Church and some native Christians. The mob offered to spare one American church if the minister could show an American flag. Unfortunately he could not. Newspapers have during many months raised popular expectations so high that intense dissatisfaction with the terms of peace resulted. Sentiment among army, navy, and nobility, however, is understood to be more conservative. Six Tokyo newspapers have been suspended. The Chief of Police has been changed; and a change of cabinet will doubtless occur when Baron Komura returns and the Diet meets. Martial law will probably continue for some time, thus insuring quiet. Meanwhile the Legation guard of twelve soldiers will continue.

Griscom.

Telegram sent September 13, 1 p. m.

Secstate, Washington.

September 13, 1 p. m. Considerable rioting occurred last night in Yokohama. Ten police stations were destroyed. Troops have been sent from Tokio and quiet restored.

Griscom.

Enclosure No. 2 with Mr. Griscom's No. 306 September 15, 1905

The undersigned Envoy Extraordinary and Minister Plenipotentiary of the United States has the honor to state that he is in receipt of a letter from Mr. Harris, the Bishop of the American Methodist Episcopal Church, stating that the Faculty and Managers of the Awoyama Gakuin, all Japanese subjects, assure the Bishop that the property of the Awoyama Gakuin at Awoyama and the Meiji Gakuin at Shirokane, Shiba, is in imminent danger of being attacked and burned tonight.

The undersigned has been furthermore informed that during the disturbances in Tokio last evening five or more Christian churches, of which four were American, were attacked and wholly or partially destroyed, and in addition various alarming rumors have reached the undersigned to the effect that the church and school property owned by American citizens in Tsukiji is in danger and is seemingly without sufficient protection.

In view of this information the American Minister has the honor to request His Excellency His Imperial Japanese Majesty's Minister for Foreign Affairs to give adequate protection to assure the safety of the aforementioned property, as well as of property of a similar nature which might be the object of attack.

The undersigned avails himself of this occasion to renew to His Excellency His Imperial Japanese Majesty's Minister for Foreign Affairs the assurances of his highest consideration.

Signed - Lloyd C. Griscom

September 7, 1905.

RECEIVED
OCT
6
1905
DIPLOMATIC BUR. DEPT. OF STATE

No. 307.

AMERICAN LEGATION,

Tokio, September 15, 1905.

ASSISTANT SECRETARY,
OCT 5 1905

Mr. Griscom to Mr. Root.

CHIEF CLERK,
OCT -4 1905
Department of State.

Subject:--Withdrawal of Military Attaches at the front.

INDEX BUREAU
OCT 12 1905
FILED

No. 307. September 15, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r:

I have the honor to confirm on the overleaf the Department's telegraphic instruction in regard to the withdrawal of General MacArthur and the other military observers detailed from our army to the Japanese armies at the front.

The contents of this instruction have been communicated to General MacArthur, who is now in Tokio, and the officers still at the front have been notified by telegraph of the instruction to return and of the Japanese authorities' acquiescence therein.

I have expressed to the Japanese Government thanks

for

Telegram received September 9.

American Legation, Tokio.

War Department desires MacArthur relieved as military attache. Advise him on arrival at Tokio. Advise Government of recall MacArthur, McClernand, Kuhn, Lynch. Express thanks for numerous courtesies to attaches and on receipt of permission for withdrawal instruct last three return home via Tokio.

Loomis.

for the courtesies extended the military attaches.

I have the honor to be,

Sir,

Your obedient servant,

Lopez Chisca.

DIPLOMATIC BUREAU
OCT 2
1905
DEPT. OF STATE

RECEIVED
OCT 5 1905
DIPLOMATIC BUR. DEPT.

No. 308.

AMERICAN LEGATION,

Tokio, September 15, 1905.

ASSISTANT SECRETARY,
OCT 5 1905

Mr. Griscom to Mr Root.

CHIEF CLERK,
OCT -4 1905
Department of State.

Subject:--The President's message to the Emperor of Japan regarding the peace terms.

INDEX BUREAU
OCT 5 1905
FILED

UNITED STATES LEGATION,
TOKIO.

No. 308. September 15, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to confirm, as appended hereto on the overleaf, a telegram from the President and my reply thereto, wherein he directs me to see His Majesty the Emperor of Japan and deliver to him a message with regard to the successful conclusion of the peace negotiations. Immediately upon receipt of the President's message I made application for an audience with the Emperor and on the 7th instant I was received and delivered to him the President's message. His Majesty replied very briefly, expressing his cordial appreciation of the President's sentiments.

I have the honor to be

Sir,

Your obedient servant,

Telegram received.

Sept. 7

Griscom, Tokio.

Please see His Majesty the Emperor and deliver to him the following: I am greatly gratified at the receipt of your kind and courteous message. It has been a matter of profound pleasure to me to try to be of what service I could in the matter of the peace negotiations. I cannot too earnestly and too heartily express my admiration for the farseeing wisdom and greatness of heart which Your Majesty and the people of Nippon have shown. It is my sincere belief that the peace which you have secured is not only in the highest decree honorable but is based on such principle of justice that it will be of lasting effect in securing the welfare and tranquility of the Far East.

Theodore Roosevelt.

Telegram sent.

Sept. 7

President Roosevelt, Oyster Bay, New York.

Seventh. I have this day personally delivered your telegraphic message to the Emperor who expressed his cordial appreciation.

Griscom.

INTELLIGENCE BUREAU RECD. OCT 2 1905 DEPT. OF STATE

RECEIVED OCT 5 1905 DIPLOMATIC BUR. DEPT. OF STATE

No. 309. September 15, 1905.

Ackd. and file. 7By

ASSISTANT SECRETARY, OCT 5 1905

Mr. Griscom to Mr. Root.

CHIEF CLERK, OCT - 4 1905 Department of State.

Hond Oct. 6

Subject:--Translations of Martial Law Ordinance and of editorial and interview of Mayor of Tokio denying existence of anti-American feeling.

INDEX BUREAU OCT 9 1905 FILED

UNITED STATES LEGATION,
TOKIO.

No. 309. September 15, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to the Legation's No. 306 of September 15th, in relation to the recent riots in Tokio, I have the honor to send herewith enclosed copies of the Imperial Urgency Ordinanace and the Law of Siege in partial operation in the city of Tokio. 1.

As bearing on the same subject I also send herewith enclosed a translation of an editorial from the "Jiji", one of the most responsible vernacular newspapers in Tokio, the purport of which is to deny that the riots were in any way indicitive of an anti-American feeling in Japan. 2.

I also enclose a translation of a report of an interview with Mr. Ozaki, the Mayor of Tokio, on the same subject and to the same effect. 3.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd C. Griscom.

Enclosures:

No. 1 - Copies of Imperial Urgency Ordinance and Law of Siege.

No. 2 - Translation of an editorial from the "Jiji" September 14, 1905.

No. 3 - Translation of an interview with Mayor of Tokio.

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TOKIO.

No. 309. September 15, 1905.

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Secretary of State,
Washington.

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Your obedient servant,

Lloyd C. Griscom.

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No. 3 - Translation of an interview with Mayor of Tokio.

Enclosure No 1 with Mr Griscom's No 309, Sept. 15, 1905.

The Japan Times.

TOKYO, THURSDAY, SEPT. 7TH, 1905.

PARTIAL OPERATION OF THE LAW OF SIEGE.

URGENCY ORDINANCES.

The following Imperial Ordinances and Order were proclaimed on Wednesday evening:—

THE LAW OF SIEGE.

Recognizing urgent necessity therefor, We, with the advice of the Privy Council and in virtue of Article VIII. of the Imperial Constitution, hereby give Our sanction to the present Ordinance relating to the enforcement of such of the provisions of the Law of Siege as may be deemed necessary within specified territorial limits of Tokyo *Fu*, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Count TARO KATSURA,
Minister President of State, and Minister of State for Foreign Affairs.

Baron GOMBEI YAMAMOTO,
Minister of State for the Navy.

Viscount AKIMASA YOSHIKAWA,
Minister of State for Home Affairs.

Baron KEIGO KIYOURA,
Minister of State for Agriculture and Commerce.

Baron ARASUKE SONE,
Minister of State for Finance.

MASAHIRO TERAUCHI,
Minister of State for War.

YOSHINAO HATANO,
Minister of State for Justice.

KANETAKE OURA,
Minister of State for Communications.

YUZURU KUBOTA,
Minister of State for Education.

IMPERIAL ORDINANCE No. 205.

Such of the provisions of the Law of Siege as may be enforced, according to an Imperial Ordinance to be separately promulgated, within specified territorial limits of Tokyo *Fu*.

The present Ordinance shall come into force from the day of its promulgation.

CONTROL OF THE PRESS.

Recognizing urgent necessity therefor, We, with the advice of the Privy Council and in virtue of Article VIII. of the Imperial Constitution, hereby give Our sanction to the present Ordinance relating to the control of newspapers and magazines, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Count TARO KATSURA,
Minister President of State, and Minister of State for Foreign Affairs.

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Minister of State for Home Affairs.

Baron KEIGO KIYOURA,
Minister of State for Agriculture and Commerce.

Baron ARASUKE SONE,
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Minister of State for War.

YOSHINAO HATANO,
Minister of State for Justice.

KANETAKA OURA,
Minister of State for Communications.

YUZURU KUBOTA,
Minister of State for Education.

IMPERIAL ORDINANCE No. 206.

Article I.—When any newspaper or any magazine governed by the Newspaper Regulations publishes items derogatory to the dignity of the Imperial House or subversive of the system of Government or prejudicial to the maintenance of Imperial institutions, or

when it publishes items tending to instigate violence or encourage crimes, the Minister of State for Home Affairs shall have the power to prohibit the sale and seize the copies of such newspaper or magazine, or to suspend its publication.

Article II.—In case the publication of a newspaper or a magazine has been suspended in accordance with the foregoing Article, the Minister of State for Home Affairs may, when he deems it necessary, suspend during the same period the publication of any other newspaper or magazine that is considered to be issued by the same person or from the same office as the other one.

Article III.—Any person who has issued a newspaper or magazine in violation of the order of suspension, or any person who has sold or distributed the copies of a newspaper or magazine in contravention of the provisions of Article I., shall be sentenced to a minor confinement of not less than one month and not more than six months, or to a fine of not less than twenty yen and not more than two hundred yen.

Article IV.—The provisions of Articles XXXV. and XXXVI. shall also apply to the infractions of the present Ordinance.

Article V.—The present Ordinance shall come into force from the day of its promulgation.

LIMITS OF THE OPERATION OF SIEGE LAW.

We hereby give Our sanction to the present Ordinance relating to the carrying out of Imperial Ordinance No. 205 of the 38th year of *Meiji*, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Count TARO KATSURA,
Minister President of State.

MASAHIRO TERAUCHI,
Minister of State for War.

IMPERIAL ORDINANCE No. 207.

In virtue of Imperial Ordinance No. 205 of the 38th year of *Meiji*, Articles IX.* and XIV.* of the Law of Siege shall be enforced within the limits of the undermentioned districts:—

Tokyo City, Ebara District, Kita-Toshima District, Minami-Adachi District, and Minami-Katsushika District.

The duties of Military Commander mentioned in the above articles of the Law of Siege shall be carried out by the Commander-in-Chief of the Defence of Tokyo.

SUPPLEMENTARY RULE.

The present Ordinance shall come into force from the day of its promulgation.

SUBSTITUTES FOR GENDARMES.

We hereby give Our sanction to the present Ordinance relating to the assisting of gendarmes by men of the mounted branches of the military service, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Baron GOMBEI YAMAMOTO,
Minister of State for the Navy.

Viscount AKIMASA YOSHIKAWA,
Minister of State for Home Affairs.

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Minister of State for War.

YOSHINAO HATANO,
Minister of State for Justice.

IMPERIAL ORDINANCE No. 208.

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* Article IX. of the Law of Siege provides that as soon as a state of siege has been declared the civil and judicial authorities of the locality shall place themselves in communication with the local military commander and ask his orders. Article XIV. contains provisions substantially the same as those contained in the Order issued by the Commander-in-Chief of the Defence of Tokyo.

of the service under the command of the Commander-in-Chief or any other commanding officer of the Gendarmerie so as to assist the gendarmes in the discharge of their duties.

Article II.—To the men assisting the gendarmes, shall be applied the Gendarmerie Regulations.

Article III.—The men assisting the gendarmes shall wear the uniform of their respective services, with a piece of red cloth on their left arm.

ORDER OF THE MILITARY COMMANDER.

With regard to the enforcement of Imperial Ordinance No. 207 of the present year, the Chief of the Metropolitan Police and the Director of the Tokyo Post Office shall, under the direction of the undermentioned, attend to the performance of the duties enumerated below. They are, however, charged to suitably regulate the severity of their measures according to the requirements of the moment.

1.—The Chief of the Metropolitan Police may suspend such public meetings or such advertisements in newspapers or magazines as he may deem prejudicial to public interests.

2.—In case anybody owns arms, ammunition or other articles of dangerous character, the Chief of the Metropolitan Police may, according to the necessity of each case, inspect and seize such arms, ammunition or articles.

3.—The Chief of the Metropolitan Police may, in case of necessity, examine the ships and commodities going out or coming in.

4.—The Chief of the Metropolitan Police may establish inspection stations at important points, and interdict the egress or ingress of persons deemed dangerous to public interests, and shall in case of necessity stop traffic by land and water.

5.—The Chief of the Metropolitan Police may, in case of necessity, enter private houses, buildings or ships for purposes of examination, at any hour in daytime or at night.

6.—The Chief of the Metropolitan Police may, in case of necessity, order any person living within the limits of the operation of the present Ordinance to retire outside those limits.

7.—The Director of the Tokyo Post Office may open any letter or telegram when he considers its contents injurious to public interests.

Viscount SAMATA SAKUMA,
Commander-in-Chief of the
Defence of Tokyo.

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

of the service under the command of the Commander-in-Chief or any other commanding officer of the Gendarmerie so as to assist the gendarmes in the discharge of their duties.

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Viscount SAMATA SAKUMA,
Commander-in-Chief of the
Defence of Tokyo.

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

Enclosure No 1 with Mr Griscom's No 209, September 15, 1905 — duplicate.

The Japan Times.

TOKYO, THURSDAY, SEPT. 7TH, 1905.

PARTIAL OPERATION OF THE LAW OF SIEGE.

URGENCY ORDINANCES.

The following Imperial Ordinances and Order were promulgated on Wednesday evening:—

THE LAW OF SIEGE.

Recognizing urgent necessity therefor, We, with the advice of the Privy Council and in virtue of Article VIII. of the Imperial Constitution, hereby give Our sanction to the present Ordinance relating to the enforcement of such of the provisions of the Law of Siege as may be deemed necessary within specified territorial limits of Tokyo *Fu*, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Count TARO KATSURA,
Minister President of State, and Minister of State for Foreign Affairs.

Baron GOMBEI YAMAMOTO,
Minister of State for the Navy.

Viscount AKIMASA YOSHIKAWA,
Minister of State for Home Affairs.

Baron KEIGO KIYOURA,
Minister of State for Agriculture and Commerce.

Baron ARASUKE SONE,
Minister of State for Finance.

MASAHIRO TERAUCHI,
Minister of State for War.

YOSHINAO HATANO,
Minister of State for Justice.

KANETAKE OURA,
Minister of State for Communications.

YUZURU KUBOTA,
Minister of State for Education.

IMPERIAL ORDINANCE No. 205.

Such of the provisions of the Law of Siege as may be enforced, according to an Imperial Ordinance to be separately promulgated, within specified territorial limits of Tokyo *Fu*.

The present Ordinance shall come into force from the day of its promulgation.

CONTROL OF THE PRESS.

Recognizing urgent necessity therefor, We, with the advice of the Privy Council and in virtue of Article VIII. of the Imperial Constitution, hereby give Our sanction to the present Ordinance relating to the control of newspapers and magazines, and order it to be promulgated.

[Imperial Sign-Manual.]

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Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Count TARO KATSURA,
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Minister of State for Education.

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when it publishes items tending to instigate violence or encourage crimes, the Minister of State for Home Affairs shall have the power to prohibit the sale and seize the copies of such newspaper or magazine, or to suspend its publication.

Article II.—In case the publication of a newspaper or a magazine has been suspended in accordance with the foregoing Article, the Minister of State for Home Affairs may, when he deems it necessary, suspend during the same period the publication of any other newspaper or magazine that is considered to be issued by the same person or from the same office as the other one.

Article III.—Any person who has issued a newspaper or magazine in violation of the order of suspension, or any person who has sold or distributed the copies of a newspaper or magazine in contravention of the provisions of Article I., shall be sentenced to a minor confinement of not less than one month and not more than six months, or to a fine of not less than twenty yen and not more than two hundred yen.

Article IV.—The provisions of Articles XXXV. and XXXVI. shall also apply to the infractions of the present Ordinance.

Article V.—The present Ordinance shall come into force from the day of its promulgation.

LIMITS OF THE OPERATION OF SIEGE LAW.

We hereby give Our sanction to the present Ordinance relating to the carrying out of Imperial Ordinance No. 205 of the 38th year of *Meiji*, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Count Taro Katsura,
Minister President of State.

Masahiro Terauchi,
Minister of State for War.

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Tokyo City, Ebara District, Kita-Toshima District, Minami-Adachi District, and Minami-Katsushika District.

The duties of Military Commander mentioned in the above articles of the Law of Siege shall be carried out by the Commander-in-Chief of the Defence of Tokyo.

Supplementary Rule.

The present Ordinance shall come into force from the day of its promulgation.

SUBSTITUTES FOR GENDARMES.

We hereby give Our sanction to the present Ordinance relating to the assisting of gendarmes by men of the mounted branches of the military service, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

(Countersig.)

Baron Gombei Yamamoto,
Minister of State for the Navy.

Viscount Arimasa Yoshikawa,
Minister of State for Home Affairs.

Masahiro Terauchi,
Minister of State for War.

Yoshinao Hatano,
Minister of State for Justice.

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* Article IX. of the Law of Siege provides that as soon as a state of siege has been declared the civil and judicial authorities of the locality shall place themselves in communication with the local military commander and ask his orders. Article XIV. contains provisions substantially the same as those contained in the Order issued by the Commander-in-Chief of the Defence of Tokyo.

of the service under the command of the Commander-in-Chief or any other commanding officer of the Gendarmerie so as to assist the gendarmes in the discharge of their duties.

Article II.—To the men assisting the gendarmes, shall be applied the Gendarmerie Regulations.

Article III.—The men assisting the gendarmes shall wear the uniform of their respective services, with a piece of red cloth on their left arm.

ORDER OF THE MILITARY COMMANDER.

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5.—The Chief of the Metropolitan Police may, in case of necessity, enter private houses, buildings or ships for purposes of examination, at any hour in daytime or at night.

6.—The Chief of the Metropolitan Police may, in case of necessity, order any person living within the limits of the operation of the present Ordinance to retire outside those limits.

7.—The Director of the Tokyo Post Office may open any letter or telegram when he considers its contents injurious to public interests.

Viscount SAMATA SAKUMA,
Commander-in-Chief of the
Defence of Tokyo.

Dated the 6th day of the 9th month of the 38th year of *Meiji*.

Enclosure No. 2 with Mr. Griscom's No. 309, Sept. 15, 1905.

TRANSLATION.

Editorial from the "Jiji Shimpo" of September 14, 1905.

It seems that various wrong reports concerning the recent disturbances in Tokio have been transmitted abroad in a moment of confusion, and some foreign journals are commenting on the event without comprehending the true state of things. We may take for instance the opinion of some American papers which appeared in our yesterday's issue. We believe, however, that foreigners will appreciate their mistake when they are fully informed of the situation. We are discontented with the terms of the peace, it is true, and therefore we condemn the Government authorities for their failure. But, nevertheless, we have no reason to feel dissatisfied with foreigners. Especially, the United States of America is the country which opened our door and guided us to European civilization, and the Japanese nation respects and loves her. We are also very grateful for the American sympathy with us during the war. Who fails to appreciate them, the great friendship of President Roosevelt and his good offices in opening the peace conference? The welcome we gave to Secretary Taft, Miss Roosevelt and their party some time ago arose from our friendship to America and our sincere gratitude to the President. Our feeling for America is ever the same; it is what it was. When President Roosevelt undertook the good offices in behalf of peace it was declared in his communication that the negotiations would be left to the belligerents alone and no interference by a third power would be allowed. As a matter of fact we do not hear of any power having interfered with the con-

ference

ference; only the President, recognizing that our demands were reasonable is reported to have sent a friendly word of advice to the Czar. This fact was reported by foreign telegrams and it indicates Mr. Roosevelt's great sympathy with Japan.

Under the circumstances, therefore, the Government who concluded so disgraceful a peace ought to be ashamed before the President, but it is impossible to feel any dissatisfaction toward him.

During the disturbances, an American church was burnt and a member of Mr. Harriman's party was threatened by a mob. We are very sorry for these things but it is a serious misconception to think that the Japanese are anti-American. Such disturbances as recently occured in Tokio are by no means uncommon, even in European or American cities. The burnt church and wounded American may be said to "have got hurt in a street row", and the fact that hundreds of Americans residing in Tokio were quite undisturbed during the crisis is a good proof that the disturbances did not aim at injuring them. There are newspapers published here by Americans, and we need not dwell upon the situation. There is no American journal in this country which interprets the recent disturbances as anti-American, because they know things Japanese well by reason of their long residence here. The American journals referred to above were, we are sure, misled by wrong reports commenting on the events.

As, however, many American gentlemen, including Minister Griscom, will send correct reports, official and unofficial, to their country, the misunderstanding of some of the American press will, it is hoped, be eventually removed.

Secretary

Secretary Taft and party will arrive at Yokohama about day after to-morrow and sail home the next day. We are very sorry that there will be no opportunity to give them such a welcome as we would like, but if they have a chance to talk with American residents in this country they will no doubt grasp the true situation and America will be informed through their agency.

Enclosure No. 3 with Mr. Griscom's No. 309, Sept. 15, 1905.

TRANSLATION.

American Misunderstanding.

(An interview with Mayor Ozaki)

According to to-day's papers, it seems that there has been a great misunderstanding caused in America by the recent disturbances. I think the cause is the burning of the churches. It is a matter of course that those who do not know ~~know~~ Japan well should consider the event as another "Boxer Trouble" when they are informed of the smashing or burning of churches and police boxes. Some American journals now probably misunderstand Japan, but if they are acquainted with detailed accounts, each misunderstanding will, I believe, be removed at once.

Those discontented with the terms of peace were excited by the mistaken policy of the police and finally lost their heads. It is, therefore, purely a demonstration against the Government and by no means an anti-foreign movement, as is proved by the fact that the Imperial Hotel next door to the Home Minister's official residence did not suffer any damage from the disturbances. As to the barbarous destruction of churches, it is much to be regretted. It was but the result of lack of police protection. Let me declare that such conduct was not an expression of the will of the general public.

(From the "Jiji Shimpo" September 14, 1905)

AMERICAN LEGATION,

TOKYO.

September 17, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to acknowledge with many thanks the receipt of your assent to my request for leave of absence for sixty days included in your telegram to Mr. Griscom received on the 15 instant.

Taking advantage of this permission I have the honor to report that I shall leave for Korea today.

I have the honor to be,

Sir,

Your obedient servant,

Irwin Langhein.

2nd. Secretary of Legation.

SOLICITOR'S OFFICE
Oct 13
File

AMERICAN LEGATION,

No. 310. TOKIO, September 23, 1905.

INDEX BUREAU REC'D OCT 12 1905 DEPT. OF STATE

CHIEF CLERK, OCT 12 1905 Department of State.

Mr. Griscom to Mr. Root.

INDEX BUREAU OCT 21 1905 FILED

SUBJECT:-Steamships "Montara" and "Australia."

Counsel has been engaged for them before Prize Court.

Confirms interchange of telegrams.

AMERICAN LEGATION,

No. 310. TOKIO, September 23, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm the receipt today of the Department's telegram, reading:

"American Legation, Tokyo.

"In re steamships Montara and Australia you "will request of Japanese Government that owners of ships "be afforded opportunity for appeal in case of adverse de- "cisions in prize court Is Montara represented by compe- "tent counsel? Adee."

and my reply thereto, reading:

"Secstate, Washington.

"Owners of Montara are represented by counsel

"Cases

"Cases are appealable within thirty days. Griscom."

Since writing my despatch No. 305, of September 11, 1905, I have received a letter from Mr. N. W. McIvor, of Yokohama, who informs me that he has been engaged by Lloyds' Underwriters to defend the cases of the "Montara" and "Australia" before the Japanese Prize Court.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

BUREAU OF APPOINTMENTS
SEP 23 1905
Department of State.

TELEGRAM RECEIVED IN CIPHER.

SOLICITOR'S OFFICE
SEP 23 1905

23

File

To Butler, Natives & Nuyadist 9/23/05 D.C.

DEPT OF STATE
SEP
23
1905
2ND ASST SECRETARY

RESPECTFULLY REFERRED TO THE SOLICITORS.

aaz

From Tokyo

September 23, 1905.

1 P.M.

Ltr Sec'l Leg. Japan, Sept. 29, 05 D.C.

RECEIVED
SEP
23
1905
DIPLOMATIC BUR. DEPT. OF STATE

TELEGRAM RECEIVED IN CIPHER.

INDEX BUREAU
RECD.
SEP.
25
1905
DEPT. OF STATE

From Tokio

September 23, 1905.

Received 11.55 A. M.

6 copies 7/26/D

To Sharkey, Hoyt, Dept. 2.6

SecState,

Washington.

September 23, 5 P.M. I have today requested Minister for Foreign Affairs that the case of ANTIOPE receive early consideration and if possible to release ship without recourse to prize court. The United States Consul at Hakodadi reports that although the cargo was formally consigned to private parties yet the private instructions of the captain which were seized by the Japanese show that the real consignee of half of the cargo is the Russia Chinese bank. Preliminary examination by the prize court was held eighteenth; the result is unknown.

GRISCOM

12.50 P.M.

INDEX BUREAU
OCT 21 1905
FILED

Deciphered by C.R.D. & S.H.Q.

Bureau of Appointments.

BUREAU OF APPOINTMENTS
SEP 23 1905
Department of State.

SOLICITOR'S OFFICE
SEP 23 1905

TELEGRAM RECEIVED IN CIPHER. 23

File

DEPT OF STATE
SEP
23
1905
2ND ASST SECRETARY

RESPECTFULLY REFERRED
TO THE SOLICITORS.

From Tokyo

September 23, 1905.

1 P.m.

SecState,

Washington.

Owners Steamer MONTARA are represented by counsel. Cases are appealable within thirty days.

GRISCOM

Reply to cablegram of September 22, from the Solicitor's office.

INDEX BUREAU
SEP 25 1905
FILED

Deciphered by C.R.D.

Bureau of Appointments.

DEPT OF STATE
OCT
13
1905
ASSISTSECRETARY

DIPLOMATIC BUREAU.
To War & Navy for information
Ack.

Secretary of State.
OCT 14 1905

No. 311.

RECEIVED
OCT
13
1905
DIPLOMATIC BUR. DEPT. OF STATE

September 23, 1905.

Asked and
To War &
Navy Depts.
for it
Cor. C

INDEX BUREAU
REC'D.
OCT
12
1905
DEPT. OF STATE

Mr. Griscom to Mr. Root.

CHIEF CLERK,
OCT 12 1905
Department of State.

Subject:--Casualties in Russo-Japanese War estimated.

INDEX BUREAU
OCT 13 1905
FILED

No. 311. September 23, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r:

I have the honor to communicate to the Department the first statement of fatal casualties on the Japanese side in the war with Russia, which has appeared in the "Jiji Shimpo", a paper of the highest standing, and purports to be authorative. The list follows:

Killed in battle	46,180
Died of wounds	10,970
Died of disease	15,300
Total deaths	72,450

Up to last spring the approximate number of dead was estimated at 30,000. From this it appears that some 17,000 were killed at Heikautai and Mukden, if all skirmishes be included. The Japanese killed and wounded during this year appear to have totalled about 80,000. A most remarkable aspect of the record is that only some 15,000 of them died of disease. These estimates in the Japanese press place the aggregate fatalities on both sides at 130,000 to 140,000 and the total casualties at between 600,000 and 700,000.

I have the honor to be,

Sir,

Your obedient servant,

Lyschisomi.

RECEIVED OCT 13 1905 DIPLOMATIC BUR. DEPT. OF STATE

No. 312. AMERICAN LEGATION,

Tokio, Japan, September 23, 1905.

INDEX BUREAU REC'D OCT 12 1905 DEPT. OF STATE

CHIEF CLERK, OCT 12 1905 Department of State.

Mr. Griscom to the Secretary of State,

Subject:- Change in status and designation of Mr. Miller, Interpreter of Legation.

No. 312. AMERICAN LEGATION,

Tokio, Japan, September 23,1905

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

Referring to my despatch No. 20 of October 29, 1903, I have the honor to renew the recommendations therein contained relating to the status and designation of Mr. Miller, Interpreter to this Legation.

I beg to enclose for reference a copy of the above-mentioned dispatch and to add that, in my opinion, the reasons in favor of the changes suggested are even stronger now than when the recommendations were first made.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

Enclosure:

Mr. Griscom to Mr. Hay, October 29,1903,- copy.

Enclosure with Mr. Griscom's No. 312, of September 23, 1905.

Copy.

No. 20. UNITED STATES LEGATION,

Tokio, Japan, October 29, 1903.

To the Honorable John Hay,

etc., etc., etc.,

Sir:-

Referring to Mr. Buck's Despatch No. 605 of December 18, 1901, in relation to the salary and designation of Mr. Miller, the Interpreter of this Legation, I have the honor to renew the recommendation of Mr. Buck that the salary of the Interpreter be increased to $ 3000.-- a year and that in the Diplomatic and Consular Appropriation Bill the term of designation be changed from Interpreter to Japanese Secretary.

All that is desired is that Mr. Miller be placed on the same footing in regard to salary as the Interpreter at Constantinople and the Chinese Secretary at Peking. The change of title from Interpreter to Japanese Secretary would make a material and well merited improvement in the official and social status of Mr. Miller. In fact Mr. Miller brings to bear on his work in this Legation a knowledge and experience deserving of a most generous treatment from our Government. His character and ability are such that it gives me pleasure to warmly recommend him to the Department for a deserved increase in salary and a more fitting designation.

I have etc., etc.,

(Sgd) LLOYD C. GRISCOM.

No. 313. AMERICAN LEGATION,

Tokyo, September 23, 1905.

INDEX BUREAU
RECD.
OCT
12
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CHIEF CLERK,
OCT 12 1905
Department of State.

RECEIVED
OCT
DIPLOMATIC BUR. DEPT. OF

Mr. Griscom to the Secretary of State.

Subject:- Confirming telegrams relating to leave of absence.

INDEX BUREAU
OCT 12 1905
FILED

No. 313. AMERICAN LEGATION,

Tokio, Japan, September 23, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

I have the honor to confirm my telegrams of the 11th instant requesting leave of absence, and of the 15th instant withdrawing the request; and the reply of the Department stating that the President thinks I should not leave my post until all signs of trouble are over, as follows:

Tokyo, September 11, 1905.

Secstate, Washington.

Request leave of absence thirty days to go Seoul Peking returning about October tenth when Diet meets.

Griscom.

Tokyo, September 15, 1905

Secstate, Washington.

My request leave of absence withdrawn.

Griscom.

Washington, September --,1905.

American Minister, Tokyo.

The President thinks you should not leave your post until all signs of trouble are over. Leave is granted Laughlin.

Loomis.

All signs of trouble and disturbance in Tokyo were over before I despatched my request for leave of absence. However for private reasons I found it impossible to leave Tokyo and therefore withdrew my request. The withdrawal had been despatched some hours before I received the President's refusal.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

BUREAU OF APPOINTMENTS
SEP 30 1905
Department of State.

Mr Smyth - File

TELEGRAM RECEIVED IN CIPHER.

From Tokio,

September 30, 1905.

Received 10.45 A.M.

SecState,

Washington.

Representations in behalf of Steamer Barracouta unavailing. Preliminary examination completed. Ship is held for trial Yokosuka prize court.

GRISCOM

INDEX BUREAU
OCT 21 1905
FILED

Deciphered by S.H.Q.

Bureau of Appointments.

INDEX BUREAU
OCT 9 1905
FILED

Deciphered by C.R.D.

Bureau of Appointments.

RECEIVED
OCT 2 1905
DIPLOMATIC BUREAU DEPARTMENT OF STATE

Mr Smith

TELEGRAM RECEIVED IN CIPHER.

BUREAU OF APPOINTMENTS
OCT 2 1905
Department of State.

Tel. Japan Oct. 2, 05.

From

Tokio,

October 1, 1905.

Received 12.25 P.M.

ASSISTANT SECRETARY,
OCT 2 1905

CHIEF CLERK,
OCT 2 1905
Department of State.

SecState,

Washington.

October 1, 7 P.M. Your telegrams in relation to the barque ANTIOPE were received. The Yokosuka prize court has now decided to hold ship for trial and interested parties are notified to appear before October 29. The Japanese Foreign Office declines to intervene while such cases are before the court. As far as can be ascertained the owners have not yet retained counsel.

ORISCOM

INDEX BUREAU
OCT 9 1905
FILED

Deciphered by C.R.D.

Bureau of Appointments.

UNITED STATES LEGATION,
TOKIO.

RECEIVED
OCT 30 1905
DIPLOMATIC BUR. DEPT. OF STATE.

No. 314.

October 3, 1905.

ASSISTANT SECRETARY,
OCT 28 1905

INDEX BUREAU
REC'D.
OCT.
28,
1905
DEPT. OF STATE

Mr. Griscom to Mr. Root.

INDEX BUREAU
OCT 31 1905
FILED

SUBJECT:-Steamship "Barracouta," seized by Japanese Naval Authorities.

Case being in hands of Prize Court, Japanese Foreign Office cannot interfere to effect her release.

Confirms interchange of telegrams.

CHIEF CLERK,
OCT 28 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

No. 314 October 3, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm, as appended hereto on the overleaf, an interchange of telegrams between the Department and this Legation, relative to the American steamship "Barracouta," which was seized by the Japanese Naval Authorities in North Bay, Saghalien, on the 16th ultimo.

Immediately following upon the Department's telegram of September 24 I received a letter, a copy of which is enclosed herewith, from the agent of the Pacific Mail Steamship Company, reporting the seizure of the vessel and her detention at Yokosuka and requesting efforts to effect her release.

On the 28th ultimo I presented to the Japanese Foreign Office a memorandum, of which a copy is enclosed, reciting the facts, so far as developed, and representing that delay in the examination of the charge against the vessel would, in all probability, entail heavy loss, inasmuch as the harbor of Nicolaievsk would be closed by ice at an early date.

The Vice Minister for Foreign Affairs, Mr. Chinda, after reading this memorandum, remarked that, if the ship was already before the prize court, the Government was powerless to interfere. He thought it was too late for settlement without

omit

Telegram received September 24, 1905:

Amlegation, Tokio.

It is represented to the Department that Pacific Mail steamer Barracouta chartered by Barneson Hibbard Company of San Francisco has been seized by Japanese naval vessels Cargo consisted of salt consigned to private firm at Nicolaievsk for fish curing purposes Also alleged that Japanese Consul at San Francisco was consulted as to shipment and he advised company that cargo was non contraband It is represented that the port of Nicolaievsk is frozen up next month rendering delivery of cargo impossible and resulting inheavy consequential damages to the company Use your good offices to secure speedy release of the vessel if possible without recourse to prize court. Adee.

Telegram sent September 30, 1905:

Secstate, Washington.

Representations in behalf of the steamer Barracouta unavailing Preliminary examination completed Ship is held for trial Yokosuka Prize Court. Griscom.

out recourse to the prize court. He sent for Mr. Kurachi, an official in charge of these matters, who stated that an examining judge had gone down to Yokosuka on September 22d to take up the case. Mr. Chinda gave me to understand that the examination would be finished in a few days and that he would communicate the result to me.

At this time Messrs. A. Barnard and L. M. Robbins, attorneys of San Francisco, and acting in behalf of the parties interested in the cargo, were in Yokohama, and they, as well as the agent of the ship, were promptly and fully advised of all facts of the case in my possession.

On the 29th ultimo Messrs. Barnard and Robbins called at this Legation and stated that they had received telegraphic instructions from the parties whom they represented to do no more in this case, as the matter had been turned over to the underwriters.

The Yokosuka Prize Court has issued a notice to all parties interested in the ship or her cargo that they may file petitions within thirty days, commencing from October 4, 1905.

At the present moment I have not been able to ascertain if the underwriters have retained counsel.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

ENCLOSURES-Copies:

1. Mr. Howard to Mr. Griscom, September 25, 1905.
2. Memorandum delivered to Foreign Office, September 25, 1905.

(Enclosure No. 1 with Mr. Griscom's No. 314 of October 3, 1905)

PACIFIC MAIL STEAMSHIP COMPANY,

Agency, Yokohama, September 25, 1905.

My dear Sir:

S. S. Barracouta.

I am in receipt of the following message from Mr. Schwerin, Peking, which reads as follows:

"I t is reported Pacific Mail S.S. Barracouta loaded with salt for Nikoleivsk has been seized Japanese Government. Can guarantee vessel had nothing aboard but salt for curing fish consigned commercial house above port. This not contraband war. Have no definite information yet relative alleged seizure but is fully vindicated peace terms. Request your good offices bring about release so ship may proceed destination. Under State Department telegraphed to you same question. Arrived today Peking. All are well. Sorry you are not with us."

That the ship has been seized is a fact for I yesterday had a letter from the captain at Yokosuka advising me to that effect.

Should you want to see me in regard to this vessel please let me know and I will at once come to Tokyo.

I may further say that Mr. Schwerin in his message advises that they will leave on Wednesday the 27th for Chemulpo.

I remain, yours very truly,

B. C. Howard,

Agent.

Hon. L. C. Griscom,

American Minister, Tokyo.

(Enclosure No. 2 with Mr. Griscom's No. 314, of October 3, 1905)

UNITED STATES LEGATION,

TOKIO.

The Pacific Mail steamship "Barracouta" had been chartered by the Barneson Hibbard Company of San Francisco. Her cargo consists of salt for fish curing, consigned to a private firm at Nicolaievsk.

The American Government is informed that the facts of the case are the foregoing.

The "Barracouta" having now been seized by the Imperial Japanese Navy and taken to Yokosuka, the American Minister is instructed by the Secretary of State to use his good offices with a view to the speedy release of the ship, if possible, without reference to a prize court.

It is alleged that the Japanese Consul at San Francisco was consulted in regard to this shipment and that he informed the company that the cargo was non-contraband.

Representations have been made to the Department of State in the sense that delay at this time will entail heavy damages to the company, inasmuch as Nicolaievsk will be frozen up in October and delivery of the cargo will, under those circumstances, be impossible.

September 25, 1905.

UNITED STATES LEGATION,
TOKIO.

No. 315. October 2, 1905.

RECEIVED
OCT 30 1905
DIPLOMATIC BUR. DEPT. OF STATE.

CONSULAR BUREAU
OCT 30 1905
DEPARTMENT of STATE

INDEX BUREAU
REC'D.
OCT. 28
1905
DEPT. OF STATE

ASSISTANT SECRETARY,
OCT 28 1905

Mr. Griscom to Mr. Root.

Subject:--Recognition of Mr. Greene, Vice and Deputy Consul at Kobe.

INDEX BUREAU
OCT. 31 1905
FILED

CHIEF CLERK,
OCT 23 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

No. 315. October 2, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to confirm the following telegram received from the Department the 23 ultimo:

"Request Japanese Government to grant temporary recog-
"nition as Vice and Deputy Consul at Kobe to Roger S. Greene.
"Adee."

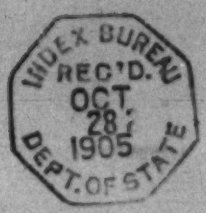
On the 29th the Foreign Office signified their compliance with the above request whereupon I immediately telegraphed the fact to our consul at Kobe.

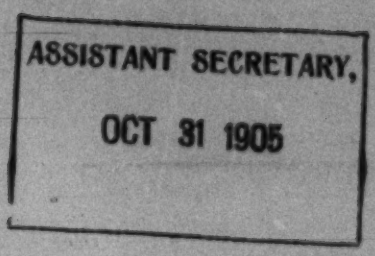
I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

UNITED STATES LEGATION,
TOKIO.

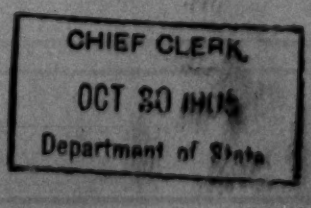
No. 316. October 2, 1905.





Mr. Griscom to Mr. Root

SUBJECT: Seizure by the Japanese Naval Authorities of the British Bark "Antiope", chartered and owned by American citizens. The vessel is held by the Yokosuka Prize Court and the Japanese Foreign Office declines to intervene while the case is sub judice.



UNITED STATES LEGATION,
TOKIO.

No. 316. October 2, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to confirm, as enclosed herewith, an exchange of telegrams with relation to the seizure by the Japanese Naval Authorities of the British Bark "Antiope" on the 13th of August, last. In compliance with your telegraphic instruction received on the 3rd of September I applied for an interview with Count Katsura, the Acting Minister for Foreign Affairs, and upon being received on the 4th ultimo I presented to him a memorandum, a copy of which is enclosed herewith, wherein I stated that the American Government had received a protest from the owners of the bark against the seizure of the vessel and the Department of State had been informed that the shippers were advised by the Japanese Consul previous to the sailing of the Antiope that there would be no trouble in view of the fact that the entire cargo consisted of salt, a non-contraband article. I requested that I be given all available information as to the status of the ship and cargo and I expressed the hope that in view of the existing conditions the vessel would be speedily released without recourse to a prize court.

I supported the memorandum with verbal representations and in reply Count Katsura promised to do what was possible in the matter and let me know the result at the earliest moment.

On the 8th ultimo, having ascertained that the ship was still at sea I telegraphed you that the details

of

of her capture could not be learned until she reached port.

On the 12th ultimo I received in reply from Count Katsura a memorandum stating that the Minister of the Navy reports that according to information received by him the "Antiope's" cargo of salt was considered as provisions and the ship was captured upon the ground that she was transporting contraband of war. The ship, he stated, was to be transferred at Hakodate to the Yokosuka Prize Court and was then on her voyage to that port.

The "Antiope" being a sailing ship and still at sea, it was impossible at that date to investigate further the circumstances of her seizure.

In compliance with your telegram received on the 21st ultimo I had another interview with Count Katsura on the 23rd and represented to him that the port of Nikolaievsk, the destination of the "Antiope", would soon be closed by ice, in view of which I requested that everything possible be done by the Japanese Government to expedite the settlement of the case, if possible, without recourse to the prize court. He again replied that he would do what was possible and let me know the result.

The "Antiope" having been brought into Hakodate, I requested our Consular Agent at that port to investigate and report the circumstances of the seizure, and in reply I received from him, on the 22nd ultimo, the following telegram:

"Antiope" seized north of Saghalien August "13th by "Tainan Maru", arrived Hakodate September "11th, cargo 1800 tons American salt consigned to "private parties at Nikolaievsk, but Captain's private "instructions seized same time as ship show that real "consignee, half the cargo, is Russo-Chinese Bank. "Procurator Yokosuka Prize Court has held preliminary "investigation here, returned Yokosuka last Monday,

no

"no further information as to whether vessel will be "tried or released. Vessel British, hails from "Victoria, British Columbia, real owners Charles "Nelson Company, San Francisco".

"King".

On the 23rd ultimo I telegraphed you the circumstances as set forth above.

The Consular Agent also addressed to me a written report giving further information with regard to the "Antiope". He states that her registered owners are Messrs R. P. Rithet of Victoria, British Columbia, although the real owners are the Charles Nelson Company of San Francisco. He also states that a Russian named M. Luri was in San Francisco last May and there made a contract with Barneson, Hibbard and Company, by which the latter were to ship 4000 tons of salt to Nikolaievsk. Barneson, Hibbard and Company chartered the American steamer "Centenial", the American bark "C. D. Bryant, and the British bark "Antiope" from the Charles Nelson Company to convey the salt to Nikolaievsk. The "Centenial" sailed from San Francisco on the 12th of June and reached Nikolaievsk and discharged her cargo prior to the 15th of July. The "C. D. Bryant" left San Francisco on the 15th of June and nothing has been heard of her since that date. It is believed she has foundered. The "Antiope" reached the northern roadstead of Nikolaievsk on the 13th of August and found awaiting her the Japanese converted cruisers "Tainan Maru" and the "Hongkong Maru" under the command of Rear Admiral Inouye. The ship was boarded and the papers examined, and a private letter of instructions from Barneson, Hibbard and Company to the Master was also found, stating, amongst other things, that notwithstanding his Bills of Lading were made to order, he

was

was to deliver one half of his cargo to the Russo-Chinese Bank at Nikolaievsk, and that the Bank would give him receipts for the whole of his cargo, and against these receipts the Bank's Agents at San Francisco would pay the vessel's freight.

Mr. King adds that the charges against the ship will most probably be that the salt was for the Russo-Chinese Bank, i. e. the Russian Government, and also that it was the intention to use this salt for salting salmon, on which the Russian Army was to be fed the coming Winter.

In view of the fact that the nationality of the ship was British I made inquiry, on the 25th ultimo, of the British Legation as to any information they might have with regard to her. I was informed that the British Minister had no instructions to intervene in behalf of the ship and that according to his information the Japanese authorities held that the salt carried by her was of too fine a quality for curing and was intended for provisions for the Russian forces.

In spite of my representations the Procurator decided that there was a good case against the ship and the Yokosuka Prize Court, on the 28th ultimo, published an advertisement in the local press inviting those interested in the vessel to appear in that Court within thirty days of that date.

On the 30th ultimo I received your telegram directing me to inform the Japanese Government of additional circumstances with regard to the ship and the terms of the contract on which the cargo was shipped, and directing me to urge expedition of the case.

As the Court had already decided to hold the ship I yesterday replied to you by telegram to that effect and stated that the Japanese Foreign Office declines to intervene while such cases are sub judice. The position

of

of the Japanese Government in this case is the same as that announced by the Vice Minister for Foreign Affairs on the 28th ultimo upon receipt of my representations in behalf of the American steamship "Barracouta".

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

Enclosures:

No. 1 - Copy of telegrams exchanged on September 3, 8, 21, 23, 30 and October 1.

No. 2 - Mr. Griscom to Count Katsura, September 4th.

Enclosure No 1, with Mr Griscom's No 316, October 2, 1905.

Draft

Telegram received September 3.

Department has received protest from owners against alleged seizure by Japanese of the steamer "Antiope" and cargo of salt. Also informed that shippers were advised by Japanese Consul previous to sailing of the steamer that there would be no trouble. Entire cargo apparently consisted of salt, a non-contraband article. Ascertain status of ship and cargo and, if possible, in view of existing conditions, secure speedy release without recourse to prize court.

Adee.

Telegram sent September 8.

Eighth. British bark "Antiope" captured north of Saghalien about August twenty-first. Alleged cargo foodstuffs and salt. Details cannot be ascertained until she reaches port.

Griscom.

Telegram received September 21.

Use good offices with Japanese Government in behalf of American charterers and owners of "Antiope" for early settlement of case as it is represented that Nicolaievsk, destination of "Antiope", will soon be closed by ice.

Adee.

Telegram sent September 23.

September 23, 5 p.m. I have today requested Minister for Foreign Affairs that the case of "Antiope" receive early consideration, and, if possible, to release ship without recourse to prize court. The United States Consul at Hakodate reports that although the cargo was formally consigned to private parties, yet the private instructions of the captain, which were seized by the Japanese, show that the real consignee of half of the

cargo

cargo is the Russia Chinese Bank. Preliminary examination by the prize court was held eighteenth. The result is unknown.

Griscom.

Telegram received September 30.

In the matter of "Antiope", referring to your telegram twenty-third instant, Department has been advised that entire cargo was consigned to private firm at Nicolaievsk. Certified copy of contract shows that Russia Bank's connection with the shipment limited absolutely to the collection by the bank from this firm of the balance due owners of the shipment, one half only of the purchase money having been paid in advance at San Francisco. This is an ordinary business practice. So inform Japanese Government, and urge the expedition of the case in view of reasons heretofore communicated to you.

Adee.

Telegram sent October 1.

October 1, 7 p.m. Your telegram in relation to the bark "Antiope" received yesterday. The Yokosuka Prize Court has now decided to hold ship for trial and interested parties are notified to appear before October twenty-ninth. The Japanese Foreign Office declines to intervene while such cases are before the court. As far as can be ascertained, the owners have not yet retained counsel.

Griscom.

Enclosure No. 2, with Mr. Griscom's No. 316, October 2, 1905

The American Government has received a protest from the owners of the steamer "Antiope" against the seizure by the Imperial Japanese naval authorities of the vessel and its cargo of salt. The Department of State has been informed that the shippers were advised by the Japanese Consul previous to the sailing of the steamer that there would be no trouble. The entire cargo apparently consisted of salt, a non-contraband article.

The American Minister would be glad to be given all available information as to the status of the ship and cargo.

In view of the existing conditions the American Government hopes that the vessel will be speedily released without recourse to a prize court.

AMERICAN LEGATION,

September 4, 1905.

D.C.

TELEGRAM RECEIVED IN CIPHER.

BUREAU OF APPOINTMENTS
OCT 5 1905
Department of State.

RECEIVED
OCT
1905
DIVISION OF FAR EASTERN AFFAIRS

From Tokio,

Received October 4, 1905.

ASSISTANT SECRETARY,
OCT 5 1905

Secretary of State,

Washington.

October 4, 10.00 p.m. CONFIDENTIAL. A rumor is current in Tokio to the effect that Secretary Taft's recent visit to Tokio was incidentally accompanied by an important understanding with reference to the Philippines as a result of the tangible disavowal by Japan of any design whatever in the new American territory, and that the United States has signified her unequivocal support in the matter of Japan's protectorate over Korea, thereby facilitating the execution of the Japanese arrangements in the peninsula. The rumor has clearly emanated the Kokumin, a newspaper which is generally known to be the Government organ. The edition of the Kokumin this morning states: "In fact it is a Japanese-Anglo-American alliance. We may be sure that when once England became our ally America also became a party to the agreement. Owing to peculiar national conditions America cannot make any open alliance, but we should bear in mind that America is our ally though bound by no formal treaty. We firmly believe that America under the leadership of the world statesman, President Roosevelt, will deal with her oriental problems in cooperation with Japan and Great Britain."

GRISCOM.

FILED

Deciphered by C.R.D.

Bureau of Appointments.

Received at White House 9.31 p.m., October 4, 1905.

FILED
OCT 9 1905
BUREAU

Deciphered by C. R. D.

Bureau of Appointments.

BUREAU OF APPOINTMENTS
OCT 5 1905
Department of State

wire Oct 5/15.

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
OCT 5 1905

RECEIVED
OCT
1905
DIPLOMATIC BUR. DEPT. OF STATE

From Tokio,

October 5, 1905,

Received 12.08 p.m.

10/6/D

Secretary of State,

Washington.

October 5, 7.00 p.m. Have endeavored to secure the consent of the Japanese Government to the proposition in regard to the Antiope and Barracouta contained in your telegram received the 3rd. Vice Minister for foreign affairs informs cannot be obtained; that the naval authorities will not permit the vessels to sail for Nicolaivsk before the operation of the treaty, even though prize court should accept bond and release ships.

GRISCOM.

INDEX BUREAU
OCT 6 1905
FILED

Deciphered by C. R. D.

Bureau of Appointments.

Rec.

INDEX BUREAU REC'D. OCT. 28 1905 DEPT. OF STATE

RECEIVED NOV 3 1905 DIPLOMATIC BUR. DEPT. STATE

Secretary of State. NOV 3 1905

UNITED STATES LEGATION,
TOKIO.

ASSISTANT SECRETARY,
OCT 31 1905

No. 317. October 6, 1905.

Mr. Griscom to the Secretary of State.

2 cities J. Con. Ito - Rec. aff.
and. Dec. 11 " Dec. 12

Subject:- Recommending the appointment of student interpreters to the Legation.

CHIEF CLERK,
OCT 30 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

No. 317. October 6, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

In view of the steadily increasing volume and importance of this Legation's Japanese department and the urgent need of training men who shall be competent to fill positions in that department, I have the honor to earnestly recommend that provision be made by Congress for the appointment of six student interpreters at the Legation in Tokio on the same general terms as the student interpreters at the Legation in Peking.

It is scarcely necessary to point out that the same reasons which led to the appointment of student interpreters for China apply with equal force in Japan. Both the Legation and the Consulates must depend in a large measure upon the Japanese department to keep in touch with the people and to obtain valuable current information. The constant translation of newspapers, laws, regulations and various documents is a heavy and essential part of the Legation's work. It would certainly add very much to the efficiency of the Legation as a whole to have two student interpreters remain here as regular assistants to the Interpreter. The remaining four students could be distributed when advisable among the Consulates in Japan , and in Korea where the Japanese language is becoming of paramount importance.

To acquire a thorough working knowledge of the spoken and written languages requires from five to ten years. Men who have spent that length of time in the country as missionaries

ionaries or business men are already absorbed in their professions and unavailable as candidates for the positions mentioned. Moreover their study has been along their own special lines and does not qualify them for diplomatic work. The other great powers have long recognized the necessity of training men in the language for their diplomatic and consular services and have made suitable provision.

I would furthermore recommend that each student be given a salary of $1000 a year and be provided with an additional allowance for teacher at the rate of $150 per annum; and that $600 annually be appropriated for the rent of a house to be occupied by the students.

I cannot too strongly urge upon the Department the importance of soon putting into effect the suggested measure as a means of increasing the efficiency of our diplomatic and consular officials in Japan in proportion to the needs of our growing trade and expanding diplomatic interests in the Far East.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

RECEIVED
NOV 1 1905
DIPLOMATIC BUR. DEPT. OF STATE.

UNITED STATES LEGATION,
TOKIO.

CONFIDENTIAL,

No. 318. October 9, 1905.

INDEX BUREAU
REC'D.
OCT.
28
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ASSISTANT SECRETARY,
OCT 31 1905

Answered Nov. 1

Mr. Griscom to Mr. Root.

Subject:--Rumor of American-Japanese entente,- confirming telegram reporting article in "Kokumin Shimbun".

INDEX BUREAU
NOV 6 1905
FILED

CHIEF CLERK,
OCT 30 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

Confidential.

No. 318. October 9, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

On the morning of the 3rd instant the Tokio correspondent of the New York Sun handed me a typewritten memorandum, a copy of which I enclose herewith, which was presented to him by the Assistant Editor of the "Kokumin", a Japanese daily newspaper which is generally recognized to be the Government organ. The memorandum is headed "An Americo-Japanese Entente" and is to the effect that it is stated in well informed circles that Secretary Taft's recent visit to Tokio had been incidentally accompanied by an important understanding with reference to the Philippines as the result of the tangible disavowal by Japan of any design whatever in the new American territory. And also that it is reliably reported that the United States has signified her unequivocal support vis-a-vis Japan's protectorate over Korea, thereby faciliating the execution of the Japanese arrangements in the Peninsula.

1

On the following morning the edition of the "Kokumin" contained an article, a translation of which I send you, which states that"in fact it is a Japanese-Anglo-"American alliance. We may be sure that when once England "became our ally America also became a party to the agree-"ment. Owing to peculiar national conditions America "cannot make any open alliance but we should bear in mind "that America is our ally though bound by no formal treaty. "We firmly believe that America under the leadership of "the world statesman President Roosevelt, will deal with "her Oriental problems in co-operation with Japan and Great Britain

2

"Britain."

The above article taken in connection with the memorandum given out to the foreign press by the Editor of the "Kokumin" seemed to me a plain indication that the Japanese Government was deliberately putting into operation a rumor. During the past year or two the "Kokumin" has been repeatedly used by the Government for this very purpose and in the present case the course followed was similar to that in previous cases.

I have no knowledge of the purpose of the Japanese Government in giving publicity to an idea such as expressed by the "Kokumin", but it seemed to me of sufficient importance to necessitate being brought at once to your knowledge, and I therefore telegraphed you on the 4th instant as follows:

"Secstate, Washington.

"October 4, 10 P.M. Confidential. A rumor "is current in Tokyo to the effect that Secretary "Taft's recent visit to Tokyo was incidentally ac- "companied by an important understanding with refer- "ence to the Philippines as a result of the tangible "disavowal by Japan of any design whatever in the new "American territory and that the United States has "signified her unequivocal support in the matter of "Japan's protectorate over Korea, thereby facilitating "the execution of the Japanese arrangements in the "peninsula. The rumor has clearly emanted from "the "Kokumin", a newspaper which is generally known "to be the Government organ. The edition of the "Kokumin" this morning states (quote) In fact it is "a Japanese Anglo-America alliance. We may be sure "that when once England became our ally America also "became a party to the agreement. Owing to peculiar

national

"national conditions America cannot make any open "alliance, but we should bear in mind that America "is our ally though bound by no formal treaty. We "firmly believe that America, under the leadership of "the world statesman President Roosevelt, will deal "with her Oriental problems in co-operation with "Japan and Great Britain."

"Griscom".

Since the publication of the first article by the "Kokumin", up to the present date, I have seen no further mention of the subject in the public press, excepting indirectly on the 8th instant, when the "Kokumin" contained an article which, translated, reads as follows:-

"When on the 11th instant the whole British "Asiatic Squadron comes to Yokohama, there will be no words "adequate to express our joy. It is indeed an event the "whole nation should rejoice at.

"To express ourselves, however, more frankly "on this subject, we wish we might have at this time a "grand naval review of the combined squadrons of Japan, "Great Britain and America. By this means we could dem- "onstrate to the world how secure is the guarantee of "peace in the Far East. Though, under the circumstances, "this hope of ours cannot just at present be realized, yet "we feel it necessary to express what we have in our mind. "We hope that the Americans will understand us."

I have the honor to be,

Sir,

Your obedient servant,

Leger Griscom.

Enclosures:

No. 1 - Memorandum as noted.

No. 2 - Translation of articles from "Kokumin".

Enclosure No. 1 with Mr. Griscom's No. 318 of Oct. 9, 1905

COPY.

AN AMERICO-JAPANESE ENTENTE.

The Philippines and Korea.

It is stated in well-informed circles that U. S. Secretary Taft's recent visit to Tokyo had been incidentally accompanied by an important understanding with reference to the Philippines as the result of the tangible disavowal by Japan of any design whatever in the new American territory. It is also reliably reported that the United States has signified her unequivocal support vis-a-vis Japan's protectorate over Korea, thereby facilitating the execution of the Japanese arrangements in the Peninsula.

Enclosure No. 2 with Mr. Griscom No. 318 of Oct. 9, 1905.

TRANSLATION.

The Anglo-Japanese Alliance is in fact a Japanese-Anglo-American alliance. We may be sure that when once England became our ally America also became a party to the agreement. Owing to peculiar national conditions America cannot make any open alliance, but we should bear in mind that America is our ally though bound by no formal treaty.

Being a large country with 76,000,000 inhabitants, America is not without some people with anti-Japanese sentiments. There are also some American who suspect Japan of having secret designs on the Philippines. Making ample allowance for all these facts, it can admit of no doubt that the majority of American, the most intelligent of them, are pro-Japanese.

We firmly believe that America, under the leadership of the world statesman President Roosevelt, will deal with her Oriental problems in co-operation with Japan and Great Britain.

(From "Kokumin" Shimbun October 4th, 1905.)

RECEIVED OCT 13 1905 DIPLOMATIC BUR. DEPT. OF STATE.

ASSISTANT SECRETARY. OCT 13 1905

TELEGRAM RECEIVED IN CIPHER.

BUREAU OF APPOINTMENTS OCT 11 1905 Department of State.

From Tokio,
October 10, 1905,
Received 11.45 p.m.

RECEIVED OCT 17 1905 DIPLOMATIC BUR. DEPT. OF STATE.

Secretary of State,
Washington.

October 10, 10 p.m. Having conveyed to the Japanese Government on the sixth instant your message received by telegraph that day, I am in receipt of a reply as follows:

"I regret to say that we are unable to agree with the views taken by the United States Government in regard to the matter. The opinion of an administrative Department expressed quite independently of the prize court can hardly be said to change or affect in any way the nature of the proceedings of that court; consequently the detention of the two ships by the prize court continues to be as much an incident of legal procedure as it ever was. In case the ships and cargo in question are released by the prize court, as the result of its award that they are not good prizes, it follows, as a matter of course, that the navy department would act in conformity with such decision. But as it is, the proposed arrangements simply suggest as a temporary measure their release under a bond, leaving the contraband question unsolved. In these circumstances it is not only legal but even obligatory that the navy department should take such legitimate action as they deem proper for preventing the contraband ships and cargo from reaching the enemy's port."

GRISCOM.

INDEX BUREAU OCT 17 1905 FILED

Confirmed Oct 16 FWJ

Deciphered by White House operator

DIPLOMATIC BUREAU.

UNITED STATES LEGATION,
TOKIO.

RECEIVED
OCT
31
1905
DIPLOMATIC BUR. DEPT. OF STATE

DEPT OF STATE
OCT
30
1905
2nd ASSISTANT SECRETARY

Copy to the President's Secretary. Instruct Mr. Griscom to make suitable acknowledgment.

No. 319. October 10, 1905.

INDEX BUREAU
REC'D.
OCT.
28
1905
DEPT. OF STATE

Mr. Griscom to the Secretary of State.

Subject:-- Transmitting to the President an Address of Thanks from the representatives of Fukushima Ken.

INDEX BUREAU
NOV 8 1905
FILED

CHIEF CLERK
OCT 30 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

No. 319. October 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to enclose herewith an Address of Thanks (with translation) which was presented in person at the Legation by the representatives of Odaka and two other villages of Fukushima Prefecture for transmission to the President.

The Address is the result of a resolution passed at a meeting held at Odaka on the 23rd ultimo in celebration of the conclusion of peace. The meeting has attracted considerable attention in Japan as one of the very few that have adopted resolutions favorable to the peace treaty.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd C. Griscom.

Enclosure:

Address of Thanks, with translation.

小高生糸商組合總代　鈴木重郎治

相馬羽二重機業者總代　半谷一意

講和祝賀會總代

相馬郡小高町長　大隅進一
相馬郡金房村長　新開英勝
相馬郡福浦村長　鈴木正宣
講和祝賀會々長　今村秀榮
相馬整練會社株主總代　半谷清壽
小高商倶樂部總代　阿部鶴五郎
小高蘭蓮業者總代　橘富治
小高羽二重商總代　多田利助

國ト平和克復ヲ見ルニ至リシハ我國民ノ齊シク感謝ニ勝ヘサル所ニシテ　閣下カ世界ノ平和ト人道トノ為ニ貢獻セラレタル偉功ニ至リテハ我國民ノ欽仰措ク能ハサル所ナリ茲ニ謹ンテ　閣下ニ對シ最高ノ敬意ヲ致シ併セテ我國民ノ深厚ナル謝意ヲ表ス

明治三十八年九月二十二日

日本帝國福島縣相馬郡小高町金房村福浦村

日本帝國福島縣相馬郡小高町外二村ノ總代タル下名ハ謹ミテ我最モ敬愛スル北米合衆國大統領ルーズヴェルド閣下ニ呈ス我帝國ノ露國ニ對シテ戰ヲ開クニ至リシ所以ハ東洋ノ平和ヲ永遠ニ維持センカ為ニ外ナラサリシハ夙ニ閣下ノ知悉セラルヽ所ナルヘク豈ニ自ラ好ンテ此事ヲ為サンヤ實ニ已ムヲ得サルニ出テタルノミ今ヤ幸ニ閣下ノ盡力ニ由リテ我帝國ハ開戰ノ目的ヲ達シタルト同時ニ露

感謝狀

Enclosure with Mr. Griscom's No. 319 of September 10, 1905.

Translation.

ADDRESS OF THANKS.

We, the undersigned representatives of the town of Odaka and two other villages in Soma-gori, Fukushima Prefecture, respectfully present to His Excellency, Mr. Roosevelt, the honored and beloved President of the United States of America, the following Address:

Your Excellency is well aware that it was to maintain the permanent peace of the Orient that Japan went to war with Russia. For why should we take up arms for the love of it? The fact is that we were unavoidably compelled to declare war. But now, when the object for which the war was begun has been accomplished, peaceful relations with Russia have happily again been restored through Your Excellency's good offices. Our whole nation is filled with gratitude and with admiration of the distinguished service rendered by Your Excellency in behalf of humanity and of universal peace.

We take this occasion to express to Your Excellency the high esteem and profound thanks of the Japanese people.

Fukuura-mura, Kanafusa-mura, Odaka-machi,
Soma-gori, Fukushima Prefecture, Japan,
September 22, 1905.

SHINICHI OSUMI, Head Official of Odaka-machi
HIDEKATSU SHINKAI, " " Kanafusa-mura
MASANOBU SUZUKI, " " Fukuura-mura
SHUYEI IMAMURA, Chairman of Peace Celebration Com.

SEIJU HANGAI, Representative of the Shareholders of the Soma Refining Company.

TSURUGORO HANGAI, " " the Odaka Commercial Club.

TOMIJI TACHIBANA, " " the Mat-makers in Odaka.

RISUKE TADA, " " the Silk Merchants in Odaka.

JUROJI SUZUKI, " " the Raw Silk Merchants in Odaka.

ICHII HANGAI, " " the Silk Weavers in Soma-gori.

TELEGRAM RECEIVED IN CIPHER

BUREAU OF APPOINTMENTS
OCT 16 1905
Department of State.

RECEIVED
OCT 17 1905
DIPLOMATIC BUR. DEPT. OF STATE

Secretary of State.
OCT 16 1905

From Tokio,

October 16, 1905,

Received 9.14 A.M.

Secretary of State,

Washington.

October 16, 1.00 P.M. Japanese naval vessels have captured American Steamer "Centennial" in Soya Straits twelfth instant.

GRISCOM.

INDEX BUREAU
OCT 16 1905
FILED

Deciphered by S.H.Q.

Bureau of Appointments.

RECEIVED
NOV
10
1905
DIPLOMATIC BUR. DEPT. OF STATE.

DEPT OF STATE
NOV
9
1905
2nd ASST SECRETARY

DIPLOMATIC BUREAU.

Copy to the President's Secy.
Give the Imperial Edict
to the Press. (done)

No. 320. AMERICAN LEGATION, F.R. 1905.
Ack.

Tokio, October 17, 1905.

INDEX BUREAU
REC'D.
NOV
9
1905
DEPT. OF STATE

Mr. Griscom to the Secretary Of State.

Subject:--Announcement of Treaty of Peace.

CODE CLERK,
NOV 8- 1905
Department of State.

No. 320.

AMERICAN LEGATION,

Tokio, October 17, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

I have the honor to transmit herewith enclosed a copy of a note dated the 16th instant from the Japanese Minister for Foreign Affairs, announcing that the Treaty of Peace signed on the 5th ultimo by the plenipotentiaries of Japan and Russia having been ratified on the 14th instant by Their Majesties the Emperor of Japan and the Emperor of Russia, the ratification was, in conformity with Article 14 of said Treaty, reciprocally announced to each Government on the following day, and consequently the Treaty and all its part came into full force on the 15th instant. The Treaty was promulgated yesterday by publication in the Official Gazette, and at the same time there was issued an Imperial Edict, a translation of which is enclosed herewith, which expresses the Imperial sanction of the peace terms and directs all Japanese to devote themselves to their customary avocations and give their best efforts to augment, by peaceful methods, the prosperity and greatness of the Empire.

The publication of the exact terms of the Treaty of Peace has called forth unfavorable criticism in the Japanese newspapers, but the general tone of the press is far more moderate than when first the terms of peace were unofficially made public. The publication of the Treaty of Alliance

with

with Great Britain and the presence of the British fleet in Japanese waters has had a marked influence in calming the whole Japanese nation and stimulating the people to an exercise of self-control. While the hostility to the present Government is to a large degree suppressed in order not to make an exhibition of internal strife in the face of the visiting allies, yet the suppression is only momentary and the antagonism will surely show itself again.

Baron Komura arrived in Tokio yesterday and the streets and railway stations were carefully guarded by police and soldiers to prevent any possibility of demonstration or violence. A considerable crowd collected in the streets through which he passed, but the people remained silent. I met Baron Komura at the railway station in Tokio on the arrival of his train and he told me that he was in fairly good health. However, members of his suite expressed to me the opinion that he is an ill man.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

NCLOSURES:

1. Count Katsura to Mr. Griscom, October 16, 1905.
2. Translation of Imperial Edict.

Enclosure No. 1 with Mr. Griscom's No. 326, October 17,1905

COPY.

Translation

No. 66

Department of Foreign Affairs,
Tokio, October 16, 1905.

Monsieur le Minister,

I have the honour to inform Your Excellency that the Treaty of Peace signed on the 5th of September last by the Plenipotentiaries of Japan and Russia having been ratified on the 14th instant by Their Majesties the Emperor of Japan and the Emperor of Russia, the ratification was, in conformity with Article XIV of the said Treaty, reciprocally announced to each Government on the following day, and consequently the Treaty in all its parts came into full force from the 15th instant.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

Signed: Count Katsura Taro,
Minister for Foreign Affairs.

His Excellency
Lloyd C. Griscom,
Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.

Enclosure No. 2 with Mr. Griscom's No. 320., October 17,1905

We have always deemed it a fundamental principle of Our International policy to maintain peace in the East and to assure the security of Our Empire, and the promotion of these high objects has therefore been Our constant aim. But last year for reasons dictated by the necessities of self-preservation We were unfortunately forced into hostilities with Russia. Since the war began Our Army and Navy have made adequate provision for home defense and for military preparations within the Empire itself and have withstood hardships of all kinds in their campaign abroad, and have thus achieved glorious success. Our civil officials have in concord with Our Diet dilligently performed their duties in furtherance of Our will. All measures for the prosecution of the war and for the administration of domestic and foreign affairs have been properly taken as the exigencies of the situation demanded. Our people, frugal and prudent, have cheerfully borne the heavy burden of national expenditure and have generously contributed to the war funds, thus assisting, as with one will, in advancing the prestige and maintaining the dignity of the State. The result is due in large measure to the Benign Spirits of Our Ancestors, as well as to the devotion to duty of Our civil and military officials and the self-denying patriotism of all Our people. After twenty months of war the position of the Empire has been strengthened, and the interests of the country have been advanced, and inasmuch as We have never wavered in Our desire for the maintenance of peace, it is contrary to Our will that hostilities be protracted and Our people should be unnecessarily subjected to the horrors of war.

When

When the President of the United States, in the interests of peace and humanity, suggested that the Governments of Japan and Russia should arrange terms of peace, fully appreciating his kindness and good will, We accepted his suggestion and at the proper moment appointed Plenipotentiaries to confer with those of Russia. The Plenipotentiaries of the two countries having met and conferred frequently, the Russian Plenipotentiaries have agreed to the proposals of Our Plenipotentiaries which were essential having in view the objects of the war and maintenance of peace in the East, thus manifesting the sincerity of their desire for peace. We have examined the terms agreed to by the Plenipotentiaries, and having found them to be in entire conformity with Our will We have accepted and ratified them. Peace and glory having thus been secured We are happy to invoke the blessing of the Benign Spirits of Our Ancestors and to be able to bequeath the fruits of these great deeds to Our posterity. It is Our earnest desire to share the glory with Our people and long to enjoy the blessings of peace with all nations. Russia is again the friend of Japan and We sincerely desire that the relations of good neighborhood now re-established shall become both intimate and cordial.

In this age when there is no delay in the World's progress there should be no cessation of effort to improve the administration of the Nation's affairs, both internal and external. While military efficiency should be maintained in full vigour even in time of peace, earnest endeavour should be made to attain success in peaceful pursuits, so that, in equal measure with the power, the prosperity of the country may be maintained and its permanent progress insured. We strongly admonish Our subjects

against manifestations of vainglorious pride, and command them to attend to their lawful avocations and to do all that lies in their power to strengthen the Empire.

Secretary of State.
OCT 17 1905

RECEIVED
OCT 18 1905
DIPLOMATIC BUR. DEPT. OF STATE.

BUREAU OF APPOINTMENTS
OCT 17 1905
Department of State.

TELEGRAM RECEIVED IN CIPHER.

From Tokio,

October 17, 1905,

Received 9.16 a.m.

Secretary of State,

Washington.

October 17, 2 p.m. The representative here of the Barracouta and Antiope has no authority to give bond or proceed before prize court with the arrangement described in your telegram of fifteenth.

GRISCOM.

INDEX BUREAU
OCT 21 1905
FILED

ciphered by S.H.Q.

Bureau of Appointments.

Office of the Solicitor.

Secretary of State. 1905.

OCT 17 1905

~~Mr. Babcock~~ By Phone

I have ~~communicated~~ the substance of this cablegram to Sheehy and Hogan, this city, who are the attorneys in the case of these vessels. Mr. Hogan says that he will telegraph his principal at San Francisco and advise the Department of their reply. He has the opinion, however, that his principal's representative in Japan has by this time been authorized to make the bond proposition referred to in Mr. Griscom's telegram. The Secretary has been handling this phase of the question himself.

O.T.C.

DIVISION OF DIPLOMATIC AND CONSULAR AFFAIRS
RECEIVED
NOV 15 1905
DEPT. OF STATE

Mr. Adee
Special attention

No. 321.

AMERICAN LEGATION,

Tokio, October 19, 1905.

Secretary of State,
NOV 14 1905

To War Dept. Nov. 16

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REC'D.
NOV 13 1905
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ASSISTANT SECRETARY,
NOV 14 1905

Mr. Griscom to Mr. Root.

Inst. Dec. 30

Subject:-Decorations offered American military officers.

INDEX BUREAU
NOV 20 1905
FILED

CHIEF CLERK,
NOV 13 1905
Department of State.

DEPARTMENT OF STATE.

Second Assistant Secretary's Room.

MEMORANDUM. Nov. 14. 1905.

Dear Mr. Secretary:

When a foreign Govt tenders a decoration to an Army or Navy officer, the usual course is to ask the Secretary of War or the Navy if it is desired that application be made to Congress for permission for M. M. to accept the decoration of the order of So-and-So conferred by the Emperor of ——. Then the application is made to Congress, which takes no action upon it.

We might refer this inquiry to the Secretary of War, but it is too vague as yet for submission to Congress, neither the name of the decoration nor of the donee being known.

Congress has not granted a permission of this kind for many years, and probably will not now do so.

A.A.A.

No. 321. AMERICAN LEGATION,

Tokio, October 19, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r:

I have the honor to transmit herewith a copy of a note from the Minister for Foreign Affairs wherein he states that in view of the especially intimate relations between the United States and Japan, and also of the sympathy and admiration which the Japanese army feel for that of the United States, His Majesty the Emperor of Japan is now disposed to confer certain Imperial orders upon the American military officers who were attached to the Japanese armies in the field during the war just ended.

Count Katsura desires me to consult you as to whether the required consent of Congress may be obtained for the acceptance of the proposed decorations by those officers.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

CLOSURE:

Count Katsura to Mr. Griscom,-copy.

Enclosure with Mr. Griscom's No. 321, October 19, 1905.

(Copy)

No. 62. Translation. DEPARTMENT OF FOREIGN AFFAIRS,

Tokio, September 25, 1905.

Monsieur le Ministre,

I have the honor to inform Your Excellency that in view of the especially intimate relations continually existing between the United States and Japan, and also of the sympathy and admiration which the Imperial army always entertains towards the United States army, His Majesty the Emperor, my August Sovereign, is now graciously disposed to confer certain Imperial orders upon the United States military officers attached to our forces in the field during the present war.

It being however understood that no officer of the United States is permitted under the Constitution to accept any foreign decorations without the consent of the Congress, I beg to request that Your Excellency will be so good as to previously consult the United States Government as to whether the requisite consent of the Congress may be secured for the acceptance of the proposed decorations by these military officers.

I avail et cetera.

Signed: Count Katsura Taro,

Minister for Foreign Affairs.

His Excellency

Lloyd C. Griscom,

Envoy Extraordinary etc., etc.

BUREAU OF APPOINTMENTS
OCT 24 1905
Department of State.

TELEGRAM RECEIVED IN CIPHER.

Copy 1-
10/28-
DE
Jca
8°

From Tokio, October 24, 1905.

Received 4:20 a. m.

ASSISTANT SECRETARY,
OCT 24 1905

STATE,

Washington.

October 24, 1905.

Whenever you think the situation permits I would like leave return to the United States.

Griscom.

Sent by cable Oct 26. Cypher book

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OCT 30 1905
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Deciphered by C. R. D.
Bureau of Appointments.

Deciphered by C. R. D.
Bureau of Appointments.

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
OCT 24 1905

BUREAU OF APPOINTMENTS
OCT 24 1905
Department of State.

From Tokio, October 24, 1905.

Received 9:39 A. M.

RECEIVED
OCT 24 1905
DIPLOMATIC BUR. DEPT. OF STATE.

cState,

Washington.

confirmed 10/24/05

October 24, 3 P. M.

I have obtained from the master of the steamship "Centennial" cuments clearly showing that her cargo was shipped by Barneson - Hisbard mpany in fulfillment of their partner Kristensens contract with General ssino representing the Russian Government at Shanghai.

Griscom.

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OCT 25 1905
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eciphered by C. R. D.

Bureau of Appointments.

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Secretary of State.
NOV 14 1905

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AMERICAN LEGATION, TOKIO, JAPAN,

No. 322. October 24, 1905.

Mr. Griscom to Mr. Root.

Acted Nov. 17

ASSISTANT SECRETARY,
NOV 14 1905

Ack. by subject

SUBJECT:-Steamship "Centennial" seized by Japanese naval force while en route to Vladivostock, October 12, 1905. Cargo destined to Russian Government. Confirms telegrams.

INDEX BUREAU
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FILED

CHIEF CLERK,
NOV 13 1905
Department of State.

AMERICAN LEGATION, TOKIO, JAPAN,

No. 322. October 24, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm my telegrams of October 16 and 24, 1905, worded:

"Secstate, Washington.

"October 16, 1, P. M. Japanese naval vessels have "captured American steamer Centennial in Soya Straits twelfth "instant. Griscom."

"Secstate, Washington.

"October 24, 3, P. M. I have obtained from the "master of the steamship Centennial documents clearly showing "that her cargo was shipped by Barneson Hibbard Company in "fulfillment of their partner Kristensen's contract with Gen- "eral Dessino representing the Russian Government at Shanghai. "Griscom."

The first of the above telegrams was based upon verbal information given this Legation by the Japanese Foreign Office.

The documents referred to in the second telegram, of which copies are herewith enclosed, were obtained from the captain of the "Centennial" by Mr. Scidmore, legal adviser to this Legation, after the vessel's arrival at Yokosuka and have not been seen by the Japanese authorities. These documents show

show, in substance, that on June 24, 1905, at Shanghai, Major General Dessino, as representative of the Russian Government, contracted with M. L. Kristensen and Company, a Danish Shanghai firm, for delivery at the bar at Nikolaievsk or at Vladivostock, at seller's option, of 50,000 Pud of American mess beef and 200,000 Pud of American salt before said ports became ice-bound; and that by contract dated September 12, 1905, one-half interest in this order was transferred by M. L. Kristensen and Company to the Barneson Hibbard Company, of San Francisco; and that for the settlement of questions arising out of the delivery of the cargo the captain of the ship was to apply to the Russo-Chinese Bank at Vladivostock; and that the ship's cargo consists of 1294 and 490/2,000 tons of salt and 1,500 barrels of beef.

The captain informed Mr. Scidmore that the ship's manifest and bills of lading, which were seized, state that the cargo is consigned to "order," that she was bound from San Francisco to Vladivostock, and that Mr. Kristensen is aboard as a passenger, although his name appears on the ship's articles as purser.

It will be remembered that the "Centennial" successfully delivered a cargo of salt at Nikolaievsk on a previous voyage during the past summer.

According to my information the Barneson Hibbard Company is also interested in the cargoes of the steamship "Barracouta" and the barque "Antiope" which are now before the Japanese Prize Court.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

ENCLOSURES-Copies:-

1. Contract between Gen. Dessino and M. L. Kristensen & Co.
2. Contract between M. L. Kristensen and Barneson Hibbard Co.
3. Invoice of cargo of steamship "Centennial."
4. Letter of instructions from Barneson Hibbard Company to captain of "Centennial."

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Your obedient servant,

Lloyd C. Scidmore

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2. Contract between M. L. Kristensen and Barneson Hibbard Co.
3. Invoice of cargo of steamship "Centennial."
4. Letter of instructions from Barneson Hibbard Company to captain of "Centennial."

(Enclosure No. 1 with Mr. Griscom's No. 322-Copy)

Shanghai, 24th June, 1905.

I, the undersigned, have this day, as representative of the Imperial Russian Government, ordered from Messrs. M. L. Kristensen & Co., a Danish Shanghai firm, a quantity of SALT and MESS BEEF. Prices, terms of delivery or payment and all such other conditions as come under this contract are as set forth herein after. The goods ordered are to be delivered at the Bar of Nicolajewsk or at Vladiwostok - at seller's option - in good order and conditions, and all at the cost of the said firm or their agents.

Specification of Goods and prices:-

Fifty thousand (50,000) Pud of American Extra Mess Beef at the price of eleven Roubles and sixty six Kopeck (Rbls. 11.66) per Pud nett weight delivered.

Two hundred thousand (200,000) Pud of American Salt at the price of one Rouble and eighty-four Kopeck (Rbls. 1.84) per Pud delivered weight. If packed in gunny sacks, same to be included in the weight.

SHIPMENT.-

The goods are to be shipped from America- not later than the first day of September this year, and should the said firm fail to effect shipment within that time, such failure on their part shall constitute the cancelling of this contract. The said firm or their agents are at liberty to ship the goods ordered in the way most convenient to them, and if the goods are delivered in more than one shipment, I further agree to pay for each shipload separately after delivery and acceptance of such goods, and payment shall not be deferred until the whole contract has been executed.

Delivery

Delivery and acceptance:-

On arrival of the steamer or steamers carrying the goods at the Bar of Nicolajewsk or at Vladiwostok the representative of the buyer shall discharge the vessel or vessels, and all expenses in connection with such discharge or unloading are to be borne by the buyer. If the goods are delivered at the Bar of Nicolajewsk the unloading is to be completed within fourteen (14) days after arrival of the vessel- if at Vladiwostok within ten (10) days after arrival of the vessel. Quality and weight of the goods to be accepted at port of delivery before departure of the vessel by the Russian Official and representative of the seller jointly thereto appionted, and their acceptance is to be final. Said acceptance is to be made in writing in duplicate, each party to this agreement to retain one copy.

Demurrage:-

Should the vessel or vessels not be discharged within the time specified I further promise to pay to the sellers or their agents demurrage at the of twenty (20) Kopeck per day per ton dead weight carrying capacity of such vessel or vessels until discharging has been completed. It is agreed and understood that the vessel or vessels shall be cleared and at liberty to leave port immediately after discharging has been completed.

Payment:-

Immediately after acceptance of the goods the authorities thereto appointed shall despatch me a telegram notifying me of such acceptance upon receipt of which I promise to pay to the order of the sellers such as is due them. Such payment shall be made through the Russo Chinese Bank at Shanghai, London or Paris, or at such other place as the sellers might find most convenient.

Other conditions.

Should peace be dedlared before the goods are shipped,

the

the sellers agree to pay me any such refund of insurance as they may obtain.

Owing to the state of war between Japan and Russia the sellers do not guarantee the delivery of the cargo here ordered, but will do all in their power to effect such delivery.

Delivery to be completed before the ports are ice bound.

For the Imperial Russian
Government
Major General Dessino

Order accepted for the sellers
M. L. Kristensen

In the presence of;;;;;;;;;;;;;;;;;;;;;;Br. Ward

Enclosure No. 2 with Mr. Griscom's No. 322 of Oct. 24, 1905.

Copy.

The BARNESON-HIBBERD CO., a corporation, incorporated under and existing by virtue of the laws of the State of California, having its principal placeof business in SanFrancisco, California, hereby agrees to deliver, and M.L.KRISTENSEN & CO., a Danish Shanghai firm hereby agrees to receive, a cargo of merchandize, at Vladivostock, Siberia, for account of M.L.KRISTENSEN & CO., of Shanghai, on the following terms:-

1st. In consideration of a transfer by said M.L. Kristensen & Co. of a fifty (50) per cent interest in the contract existing between the said M.L.Kristensen & Co. and the Russian Government, dated Shanghai, 24th June, 1905 (said contract being duly executed on behalf of the Russian Government by General Dessino) to the said Barneson-Hibberd Co. (It being understood that this being a joint venture that all risks and expenses shall be mutually borne by said Barneson-Hibberd Co. and said M.L.Kristensen & Co. and that all profits, after deducting all expenses of the venture which have been advanced by said Barneson-Hibberd Co. shall be equally divided.) The said Barneson-Hibberd Co. agree to ship thirteen hundred and fifty (1350) tons (of 2000 pounds) of salt, ten per cent more or less, and fifteen hundred (1500) barrels of beef from SanFrancisco to Vladivostock, to be applied on said contract.

2nd. It is understood and agreed between the said M.L.Kristensen and Co. and Barneson-Hibberd Co. that Captain B. Gilboy, Master of the Steamer "Centennial" shall act as the personal representative of the said Barneson-Hibberd Co. and represent them at Vladivostock.

3rd. M.L.Kristensen will go forward on the Steamer "Centennial" from SanFrancisco to Vladivostock and upon his arrival there will make the necessary arrangements to see that

this

this cargo is delivered to the accredited representative of the Russian Government at that point; also to provide the necessary guarantee to the satisfaction of Captain B.Gilboy that the funds to be collected under this contract are deposited to the account of said Barneson-Hibberd Co. with the Russo-Chinese Bank at that point, who will thereupon notify said Barneson-Hibberd Co. through the Russo-Chinese Bank of SanFrancisco that said funds have been deposited. Upon receipt of such advice the said Barneson-Hibberd Co. will arrange to turn over to said M.L. Kristensen & Co., on telegraphic advice or otherwise as may be requested by him, fifty (50) per cent of the amount remaining to the credit of the venture after all expenses have been deducted including the cost of returning the Steamer Centennial to her port of departure. It being clearly understood by said M.L.Kristensen & Co. that before delivery of the cargo to them, he, the said M.L.Kristensen must provide to the satisfaction of Captain Gilboy, the representative of the Barneson-Hibberd Co., a sufficient guarantee to cover the amount involved under the contarct. In the event of the Russian Government, for any reason, refusing to accept the goods under the contarct, then it is mutually understood that they shall be disposed of to the best possible advantage for risk and account of both parties interested, and this disposal shall not be made except with the approval of Captain Gilboy; and in the event of the Russian Government refusing to accept the goods and said M.L.Kristensen not making arrangements satisfactory to said Captain Gilboy for the disposal of said goods within seven (7) days after arrival of the vessel, then said representative of Barneson-Hibberd Co. Captain B. Gilboy shall have the right to dispose of the goods at his pleasure, Barneson-Hibberd Co. being absolved from all liability under the contarct but having the right of recourse against said M.L.Kristensen & Co. for their proportion of any loss that may accrue in the event of the disposal of the cargo

in

in such a manner.

For the purpose of determining the cost of returning the "Centennial" from Vladivostock to SanFrancisco, it is mutually agreed that the sum of seven thousand five hundred (7500) dollars shall be stated as the amount necessary for this purpose.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals this twelfth day of September, 1905.

BARNESON-HIBBERD CO.

By John A. Barneson

President.

By I. N. Hibberd

Secretary

M. L. KRISTENSEN & CO.

By M.L.Kristensen.

omit

(Enclosure No. 3 with Mr. Griscom's No. 322-Copy)

San Francisco, September12, 1905.

Russian Date Aug. 30, 1905.

"CENTENNIAL Venture

For Account of M. L. Kristensen & Co.

And Messrs. Barneson-Hibbard Co.

....

Sept. 12, 1905. To Freight on Cargo per S.S. Centennial to Vladivostock:-

1294-490/2000 tons Salt @ $20 per ton of 2000# = $25,884.90

1500 Bbls. Beef - 300 Tons @ $20 per ton of 40 cu. ft. = 6,000.00

$31,884.90

(Enclosure No. 4 with Mr. Griscom's No. 322-Copy)

BARNESON-HIBBARD CO. INC.
Shipping and Commission Merchants
116 California Street
San Francisco, Cal., Sept. 12, 1905.

Captain B. Gilboy,
Master S.S. "Centennial",
San Francisco.

Dear Sir:- "Centennial."

Enclosed herewith please find copy of our contract with Messrs. M.L.Kristensen & Co., together with a copy of contract which they have with the Russian Government, which is the basis of our contract with them.

You will notice by the terms of the contract between ourselves and Messrs. M.L.Kristensen & Co. that you are to act as our representative in Vladivostock and will bear in mind the responsibility attaching to this appointment. At this distance it is practically impossible to give you any hard and fast instructions regarding the minor details which may come up from time to time, and you will therefore have to be guided by your own good judgment, using as much prudence as you possibly can in protecting our interests and at the same time not being afraid to take what steps are necessary to insure the success of the venture.

We would call your attention particularly to that part of the contract which states that Mr. Kristensen is to arrange a guarantee that will satisfy you with reference to insuring the payment to us of the moneys to be paid us by the Russian Government as per the terms of their contract with M.L.Kristensen & Co.

Mr.

Mr. Kristensen tells us that it may be necessary for him to be able to draw up to $2500 for necessary expenses previous to the acceptance of the goods. He is not certain about this, however, but has asked us to agree, upon receipt of cable advices from him of this request, to furnish him with the money. We have asked him to have you join with him in the cable. Would say for your information, if you are satisfied that the money is needed to expedite matters to a successful issue, you are authorized to draw this amount from the Russo-Chinese Bank at Vladivostock. Any time you are in doubt as to just what to do and have not time to cable us for advice, and feel sure that you can get better advice by consulting someone locally. You will please apply to the officials of the Russo-Chinese Bank at Vladivostock, whom we will ask to assist you in every way they consistently can.

You will see that in case it is finally impossible to to deliver these goods to the Russian Government, you are to sell them in Vladivostock at the best prices obtainable. If the question reaches this stage, feel quite sure you will find the Russo-Chinese Bank officials of good service to you, and we would ask you to consult with them as much as possible so as to have the benefit of their position over there, as otherwise ypu might have trouble in disposing of the cargo to any advantage.

In case of any uncertainty, when you cannot decide for yourself, do not hesitate to cable us, and you will note from our letter head the cable codes we use. In cabling do not take the chance of making your message unintelligible by your desire to economize in the length of the cable; but have your messages perfectly plain.

We are enclosing you herewith letters to the Alaska Commercial Co. at Unalaska, which I would ask you to please

deliver

deliver. Would also say for your information that we have arranged with the Alaska Commercial Co. at Unlaska to supply you with coal. You know, of course, that this is the inside station, the outer one belonging to the North America Commercial Co; but want you to understand plainly that arrangements for furnishing you with fuel were made with the Alaska Commercial Co.

Notify us at once as soon as you arrive in Vladivostock, simply arranging your cable in these words "Barneson San Francisco Centennial". By this we will understand that the steamer Centennial has arrived at Vladivostock.

We understand that Mr. James Tyson, the owner of the "Centennial" is furnishing you with the data necessary to enable you to make up the expenses of the Steamer from the time she commences to load here in San Francisco until she reached Valdivostock. It is possible that he may overlook some charges such as stevedoring, water, pilotage etc. All these charges you are thoroughly familiar with and can supply yourself.

We want to be in a position to make settlement at Vladivostock, if necessary, as there is a probability that M. L. Kristensen & Co. will want to do so and we have told them that we would be in a position to make the settlement, if necessary.

We understand also that Mr. Tyson has given you authority to engage in coasting trade on that coast, if there is any opportunity for you to do so to the advantage of the ship.

We are enclosing you also copy of pro forma charter party which will be of some guide to you and complete the records of your papers.

We are also enclosing you copy of bills of lading and would here agin call your attention to the fact that we wish you to be extremely careful in seeing that when delivery is made our interests are properly protected; and while we want you to do this, please do not take any stand which would interfere with

the

the success of the venture unless you feel sure that our rights are in jeopardy.

As stated in the early part of this letter, we realize a good deal of the success of this expedition depends upon your judgement and the ability with which you handle it.

We are also enclosing you copy of invoice showing the cost of the cargo, which must be taken into consideration in the settlement.

Trusting you will be able to report back to us with as successful a record as the ship made on her last voyage, we are

Yours very truly,

Barneson-Hibberd Co.,

By (signed) John Barneson

I.N.H.

P. S. With reference to proforma charter party, the rate stipulated in this is for use in case of conflict with the Russian Officials but is not to be taken into account by you in making up the cost of the venture. This will be made up, bearing in mind, that we are paying $125 per day for the use of the bare vessel, and in addition to this, you must therefore figure fuel, stevedoring, port charges, wages of crew and provisions; and for the purpose of figuring the total cost of the venture a sum of $7500 has been stipulated and agreed upon as the amount necessary to bring the ship back from Vladivostock to San Francisco. This amount would not include any of the expenses in Vladivostock.

B.H.Co.

No. 323.

AMERICAN LEGATION,

Tokio, October 25, 1905.

RECEIVED NOV
Secretary of State.
NOV 14
DEPT OF STATE

File

INDEX BUREAU REC'D. NOV 13 1905 DEPT. OF STATE

ASSISTANT SECRETARY, NOV 14 1905

Mr. Griscom to Mr. Root.

Subject:- Mr. Toritch's property left at Port Arthur.

Asked Nov. 18

INDEX BUREAU NOV 21 1905 FILED

CHIEF CLERK NOV 13 1905 Department of State

No. 323.

AMERICAN LEGATION,

Tokio, October 25, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

Referring to my dispatch No. 264 dated May 24, in regard to property left at Port Arthur by Mr. W. Toritch, an American citizen, I have the honor to transmit herewith a copy of the report of the Japanese military authorities giving the results of their efforts to identify the property in question. A copy of this report has been sent to the Consul-General at Shanghai for the information of Mr. Toritch.

In last August this legation received from Shanghai additional particulars about this case, whereupon I again addressed the Minister for Foreign Affairs on the subject in a note copy of which is enclosed herewith. The two annexes to that note were a copy of Mr. Toritch's affidavit giving a list of his property,- chiefly household effects,- and a plan showing the location thereof at Port Arthur.

This later report is sent me by the Minister for Foreign Affairs as the result of the legation's renewed representations.

So long as the Japanese Government declines to allow interested parties to visit Port Arthur to investigate their affairs it is impossible to deal satisfactorily with these cases

cases.

I have the honor to be,

Sir,

Your obedient servant,

L Lyn Christian.

CLOSURES:

1. Military authorities' report on Toritch's property at Port Arthur.
2. Mr. Griscom to Count Katsura, August 3.

Enclosure No 1 with Mr Greene's No 323, Oct. 25, 1905.

Copy of military authorities' report in re Mr. Toritch's property at Port Arthur.

1. The house at No. 2 Torgovaia St. Old Town, (B in the sketch attached to Mr. Toritch's affidavit) in which, it is alleged, Mr. W. Toritch had left his property when leaving Port Arthur, corresponds with a part of the building at No. 6 Nogi-cho Sanchome Old Town of the present time and is now being occupied by Hikoichi Hagiwara, Agent of Hisanari Sakomidzu, Proprietor of the Canteen attached to the Board of Command of the Port Arthur Fortress.

2. It is learned that three Russian women had been living in the house before Hikoichi Hagiwara came to occupy it in the beginning of February of the present year, but it is impossible now to know who these women were and from whom they had rented the house or whether they had illegally occupied the house taking advantage of the absence of its proprietor.

3. According to H. Hagiwara's statement, he was granted by the proper authorities (Japanese) to make use of the house after the above-mentioned women left and is still residing there at present. He adds that at the time he was granted the use of the house Kalgan (spelling uncertain) the person taking charge of the Barashkow's property had removed things from the house to the Barashkow's store-house in New Town with the exception of one chest of drawers, one cupboard containing kitchen utensils, and one table which were found difficult to move (and which all exist in the house now) alleging that they are Barashkow's property.

4. Consequently we inquired of the aforesaid Kalgan the the reasons for removing the things and received a reply (as per translation of his letter herein enclosed) to the effect that he had removed the articles as per annexed list from the house now stated to be Toritch's, the same house having been represented to be Barashkow's by Zenneko (spelling uncertain) agent

agent of Barashkow.

5. Such being the case although it is impossible to ascertain whether the articles mentioned in paragraph 3 and those removed by Kalgan correspond with the objects of the present search yet we could not discover before then anything that may be considered to be the articles belonging to the applicant, and if we may take it as granted that the above-mentioned articles would be the applicant's (Mr. Toritch's) property because of their presence in the former residence of the applicant, we can surely say that so far as these articles are concerned they have been preserved perfectly in the then existing condition.

Translation of Kalgan's letter addressed to the Civil Administration Office dated September 4th, 1905.

In January of the present year I was shown to the residence of Mr. Barashkow in Old Town by Mr. Zennéko (spelling uncertain), agent of Mr. A. I. Barashkow and was requested to remove all the articles in and about the premises to New Town and to make a list of the things so removed marking which were taken from which building. The building above referred to was occupied by a Japanese Canteen on February 7th of the present year, and Mr. Barashkow's books for the years 1901 and 1902, etc. were thrown outside the house together with rubbishes; so I mentioned the state of things to the Military Administration Office and requested that the house be not allowed to be used by the canteen for reason that Mr. Barashkow's merchandise was kept there. I had however received a reply from the Office stating that they have the right to occupy the house for it is the municipal property but that the goods belonging to Mr. Barashkow may be taken away to New Town. On February 9th I removed a part of the goods and, also from the house stated to be Mr. Toritch's,

two

two chests of drawers for clothes, two wardrobes, one desk, one spring couch, two spring easy-chairs, two spring chairs, making ten pieces of furnitures in all. I have the honour to make the foregoing statement.

(Signed) Kalgan,

Store-keeper of Barashkow's goods.

Enclosure No. 2 with Mr. Griscom's No. 323 of October 25, 1905.

No. 162. AMERICAN LEGATION, TOKIO,
August 3, 1905.

Monsieur le Ministre,

On May 19 His Excellency the Baron Komura did me the honor to send me the translation of a report made to the Minister for War by the Chief of Staff of the Liaotong Garrison on the subject of the property of Mr. W. Toritch, left at Port Arthur.

From the report in question it appeared that Mr. Toritch's property had not then been found and that there was confusion as to the identity of his house.

In order to elucidate the matter and to facilitate Your Excellency's Government in identifying Mr. Toritch's property, I have the honor to transmit herewith a copy of Mr. Toritch's affidavit, made at the American Consulate-General in Shanghai, wherein are given many particulars in regard to the property under discussion.

The original papers are all at present kept at this Legation. With the exception of Exhibits B and E which accompany the enclosure, it is not thought necessary to submit the sub-enclosures to Your Excellency.

At the same time I have the honor to renew the request that, pending the much desired arrangement by which Mr. Toritch may personally investigate his affairs at Port Arthur, the military authorities may continue their efforts to identify and protect his property.

I avail etc., etc.,

(Sgd) LLOYD C. GRISCOM.

To His Excellency,

Count Katsura Taro,

etc., etc., etc.,

RECEIVED
NOV 16 1905
BUREAU OF ACCOUNTS
DEPT. OF STATE.

No. 324

AMERICAN LEGATION,

Tokio, Japan, October 25, 1905.

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NOV 1905
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ASSISTANT SECRETARY,
NOV 14 1905

Mr. Griscom to the Secretary of State.

File
Attended to while Mr Griscom was at the Department prior to his departure for his new post of duty in Bangkok

CHIEF CLERK,
NOV 13 1905
Department of State.

INDEX BUREAU
JAN 18 1906
FILED

Subject:-- The Contingent Expenses of the Legation.

No. 324. AMERICAN LEGATION,

Tokio, Japan, October 25, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

I have the honor again to refer to my despatch No. 269 of June 2, 1905, on the subject of the contingent expenses of this Legation, in which I stated that the unusual conditions existing in Japan during the last year had involved an expenditure so much in excess of ordinary times, with so many unforeseen demands, that no economy in the distribution of the funds at the Legation's disposal had been able to meet the demand for contingencies.

The amount due me from the United States for contingent expenses for the fiscal year ending June 30, 1905, as shown by my account rendered at that time, was $642.24. In order to bring the matter to the attention of the Department in time to have it included in the Deficiency Appropriation Bill to be presented at the coming session of Congress I will take the liberty of drawing for the amount of last year's deficit; and I have the honor to request that the Department will in any case protect my draft, charging the same to my personal account if disallowed on the Contingent Fund.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

BUREAU OF APPOINTMENTS
OCT 25 1905
DEPARTMENT OF STATE.

TELEGRAM RECEIVED IN CIPHER.

RECEIVED
OCT 25 1905
DIPLOMATIC BUR. DEPT. OF STATE.

To Secy of War Oct 25

From Tokio, October 25, 1905.

(Received 7:47 a. m.)

Secretary of State,

Washington.

Secretary of State.
OCT 25 1905

oct 10/25/05

October 25, 3 P.M.

The Emperor of Japan has decided as an act of grace to release ships captured during the armistice provided owners of ships and cargoes relinquish all possible claims for damages. The Minister for Foreign Affairs wishes to know if the Barracouta and Centennial desire to avail of this.

Griscom.

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NOV 1 1905
FILED

Ciphered by.....C. R. D.
Bureau of Appointments.

PJ

TELEGRAM RECEIVED IN CIPHER.

RECEIVED OCT 31 1905 DIPLOMATIC BUR. DEPT. OF STATE.

BUREAU OF APPOINTMENTS OCT 27 1905 Department of State.

From Tokio, October 27, 1905.

Received 3:05 A.M.

Secretary of State. ASSISTANT OCT. 31 1905 OCT 27 1905

Secretary of State,

Washington.

Miller requests leave to return to the United States. I

approve.

Griscom.

Interpreter of the Legation

Oct. 31, 05

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Ciphered by C.R.D.

Bureau of Appointments.

November 1, 1905.

Mr. Babcock:

There would be left at the legation, the Secretary, the 2nd Secretary, and a clerk, a force sufficient in my judgement to do the present work of the legation, which is not now especially heavy. Mr. Griscom has approved the application, so he evidently thinks Miller can be spared. It could be made a condition that Miller make provision for a substitute whenever required. That has been done in the past.

S.G. Smith

UNITED STATES LEGATION,
TOKIO.

Secretary of State,
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No.325. October 26, 1905.

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ASSISTANT SECRETARY,
NOV 14 1905

Mr. Griscom to Mr. Root.

Ans. by subject

Subject:- "Barracouta" and "Antiope",- confirming telegrams regarding question of their release under bond.

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CHIEF CLERK,
NOV 13 1905
Department of State.

UNITED STATES LEGATION,
TOKIO.

No. 325. October 26, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm, as herewith enclosed, an exchange of telegrams between the Department and this Legation with regard to the desire of the owners of the British bark "Antiope" and the American steamer "Barracouta" to secure the release of the vessels and their cargoes by giving a bond for their full value.

On the 5th instant, in compliance with your telegraphic instruction received on the 3rd instant, I obtained an interview with Mr. Chinda, the Vice Minister for Foreign Affairs, and informed him that it was proposed by the owners of the "Antiope" and "Barracouta" to ask the Prize Court to release them upon giving bond for the full values of the ships and cargoes. I asked Mr. Chinda if the Court agreed to release the ships under these conditions, would the Japanese Government have any objection to allowing the ships to proceed to their destination, Nikolaievsk. I explained that the request was made in view of the fact that the harbor of Nikolaievsk freezes in the middle of October and if the ships cannot get there before that date the owners would be subject to great loss. Mr. Chinda replied that he would ascertain the views of the naval authorities on this subject. On the following day, Mr. Matsui, an official of the Foreign Office, delivered Mr. Chinda's reply to Mr. Wilson, of this Legation, and stated that the Japanese naval authorities would

not

not permit the vessels to leave before the operation of the peace treaty, even should they be released on the above mentioned conditions by the Prize Court. I immediately telegraphed you to this effect.

On the 6th instant I received your further instruction directing me to say to the Japanese Government that the detention of the "Antiope" and "Barracouta" appears to be no longer an incident of legal procedure, but to be a matter of Japanese public policy quite irrespective of the question whether the cargoes are contraband or not, and we shall understand that, as a matter of course, in case the claimants are successful in the Prize Court the Government of Japan will indemnify them for the loss which they have suffered by the detention of the vessels pending the treaty going into effect. I immediately addressed to Mr. Chinda an informal note, a copy of which is enclosed herewith, wherein I embodied your message. I received a reply from Mr. Chinda on the 10th instant and at once conveyed it to you by telegraph. Mr. Chinda states that he regrets to say that the Japanese Government is unable to agree with the views taken by you in regard to this matter. Furthermore, the opinion of an administrative department expressed quite independently of the Prize Court can hardly be said to change or effect in any way the nature of the proceedings of that Court. Consequently the detention of the two ships by the Prize Court continues to be as much an incident of legal procedure as it ever was. And in case the ships and cargoes in question are released by the Prize Court, as a result of its award that they are not good prizes, it follows, as a matter of course, that the Navy Department would act in conformity with such decision. But as it is, the proposed arrangements simply suggest, as a temporary measure,

their

their release under a bond, leaving the contraband question unsolved. In these circumstances it is not only legal, but obligatory that the Navy Department should take such legitimate action as they deem proper for preventing the contraband ships and cargoes from reaching the enemy's port.

On the 15th instant I received your telegram directing me to renew, in view of the ratification of the treaty of peace, my efforts to secure the acceptance by the Japanese Government of the offer of the owners of the "Antiope" and "Barracouta" to give bond to secure the release of the vessels and cargoes pending the decision of the Prize Court. I immediately communicated with the Yokohama representative of the vessels and was informed by him that he had no authority to give a bond or proceed before the Prize Court with the above mentioned arrangement.

On the 22nd instant I received your telegram stating that the representatives of the owners had informed the State Department that the Pacific Mail Steamship Company's agent had been cabled to confer with me in regard to the bond. On the 24th instant I had a conference with the agent and he informed me that his Japanese counsel, who had been directed by him to place the matter of the bond before the Prize Court, had now informed him that under the Japanese law there was no authority for the acceptance of such a bond by the Court and he suggested that the matter must be taken up administratively by this Legation. I immediately expressed my willingness to do whatever was possible and on the afternoon of the same day I had another interview with Mr. Chinda and asked him if his Department would not assist in perfecting the arrangements for the release of the ships. Mr. Chinda replied that he would take that matter under consideration,

but

but he advised that the owners of the vessels should not proceed with the matter of the bond until they heard the result of a project which was under consideration by the Japanese Government to propose to the Emperor that, as an act of grace, he should release all the vessels seized by the Japanese naval authorities during the armistice. On the following day Mr. Chinda called upon me to inform me that the Cabinet had definitely decided to submit to the Emperor the measure set forth above, on the condition that the owners of the ships and cargoes relinquished all possible claims for damages. Mr. Chinda added that the Japanese Government wished to know if the two American ships, the "Centennial" and the "Barracouta", desired to avail of this act. He asked that I obtain for him an answer.

As the British bark "Antiope" was seized before the operation of the armistice, she could not possibly benefit by the general act of release, and I therefore presume that the efforts to obtain her release by bond will be continued by the owners. I will endeavor to obtain for them whatever assistance they may require from the Foreign Office. No further action will be taken with regard to the "Barracouta" until I receive information as to whether the owners decide to accept the conditional release which is offered.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

ENCLOSURES:

No. 1 - Copies of telegrams exchanged on the 3rd, 5th, 6th, 10th, 15th, 17th and 22nd.

No. 2 - Mr. Griscom to Mr. Chinda, October 6, 1905.

Omit

Enclosure with Mr. Griscom's No. 325 of October 26, 1905.

Telegram received October 3, 4 p.m. .

Washington, --------, 1905.

Amlegation, Tokio.

Owners "Antiope" and "Barracouta" wish to secure the release of vessels and cargoes by giving bond for full value. Otherwise freezing of the port of Nicolaievsk about the middle of October will prevent delivery of cargoes under their contracts and irreparable damage will be done them although they succeed before the Prize Court. They will arrange for giving security by any banking concern satisfactory to Japanese Government and will appoint representative there to conduct the business. Endeavor to secure favorable treatment of such an arrangement.

ROOT.

Telegram sent, October 5, 1905.

Tokio, October 5, 1905.

Secstate, Washington.

October 5, 7 p.m. . Have endeavored to secure the consent of the Japanese Government to the proposition in regard to the Antiope and Barracouta contained in your telegram received the third. Vice Minister for Foreign Affairs informed me that their naval authorities will not permit the vessels to sail for Nicolaievsk before the operation of the treaty even though Prize Court should accept bond and release ships.

GRISCOM.

Telegram

Telegram received October 6, 1905.

Washington, ---------, 1905.

Amlegation, Tokio.

Say to Japanese Government that the detention of the Anti-ope and Barracouta appear to be no longer an incident of legal procedure but to be a matter of Japanese public policy quite irrespective of the question whether the cargoes are contraband or not and we shall understand that as a matter of course in case the claimants are successful in the Prize Court the Government of Japan will indemnify them for the loss which they have suffered by the detention of the vessels pending the treaty going into effect.

ROOT.

Telegram sent, October 10, 1905.

Tokio, October 10, 1905.

Secstate , Washington.

October 10, ten p.m. . Having conveyed to the Japanese Government on the sixth instant your message received by telegraph that day I am in receipt of a reply as follows (quote):

"I regret to say that we are unable to agree with the views taken by the United States Government in regard to the matter. The opinion of an administrative department expressed quite independently of the Prize Court can hardly be said to change or affect in any way the nature of proceedings of that Court. Consequently the detention of the two ships by the Prize Court continues to be as much an incident of legal procedure as it ever was(period). In case the ships and cargo in question are released

leased by the Prize Court as the result of its award that they are not good prizes it follows as a matter of course that the Navy Department would act in condormity with such decision (period). But as it is the proposed arrangements simply suggest as a temporary measure their release under a bond leaving the contraband question unsolved (period). In these circumstances it is not only legal but even obligatory that the Navy Department should take such legitimate action as they deem proper for preventing the contrabend ships and cargo from reaching the enemy's port"(End quotation).

GRISCOM.

Telegram received October 15, 1905.

Washington,---------, 1905.

Amlegtion, Tokio.

As the treaty of peace has now been ratified by the two Governments and become effective you will renew your efforts to secure acceptance by the Japanese Government of offer of owners of Antiope and Barracouta to give bond and secure the release of vessels and cargoes pending decision of Prize Court.

ROOT.

Telegram sent October 17, 1905.

Tokio, October 17, 1905.

Secstate, Washington.

The representative here of the Barracouta and Antiope has no authority to give bond or proceed before Prize Court with the arrangement described in your telegram of fifteenth.

GRISCOM

Telegram received, October 22, 1905 .

Washington, --------, 1905.

Griscom, Minister , Tokio.

The representatives of the owners Antiope and Barracouta inform the Department that the Pacific Mail Company's agency at Yokohama has been cabled to confer with you in reference to bond.

ROOT.

Enclosure No. 2, with Mr. Griscom's No. 325 of Oct. 26, 1905

C O P Y.

October 6, 1905.

Dear Mr. Chinda:

I at once conveyed to my Government the information contained in Mr. Matsui's note to Mr. Wilson of yesterday's date in relation to the seized ships "Barracouta" and "Antiope", wherein he stated on your behalf that the Japanese Navy Department was unable to allow the vessels to proceed to Nikolaeivsk with their cargoes before the coming into force of the Treaty of Peace, even if arrangements can be made between the Prize Court and the interested parties to accept a bond and release the ships.

I am now in receipt of a telegram in reply from the Secretary of State whereby I am instructed to say to you that the detention of the Antiope" and "Barracouta" appears to be no longer an incident of legal procedure but to be a matter of Japanese public policy quite irrespective of the question whether the cargoes are contraband or not, and we shall understand that as a matter of course in case the claimants are successful in the Prize Court the Government of Japan will indemnify them for the loss which they have suffered by the detention of the vessels pending the treaty going into effect.

Very sincerely yours

Signed: Lloyd C. Griscom.

No. 326. AMERICAN LEGATION,

Tokio, October 27, 1905.

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Mr. Griscom to Mr. Root.

Subject:- "The Japan Year Book" for presentation to the President.

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THE WHITE HOUSE.
WASHINGTON.

December 6, 1905.

My dear Mr. Secretary:

Referring to your letter of the 5th instant transmitting copy of a despatch from Minister Griscom, the President requests me to ask you to be good enough to make appropriate acknowledgment of the book mentioned therein, with his thanks.

Very truly yours,

Secretary to the President.

Hon. Elihu Root,
Secretary of State.

No. 326.

AMERICAN LEGATION,

Tokio, October 27, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r:

I have the honor to transmit under separate cover for presentation to the President a specially bound copy of "The Japan Year Book", a new publication which contains much valuable information in regard to this Empire.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

AMERICAN LEGATION, TOKIO, JAPAN,

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October 30, 1905.

Consular Clerk G. H. Scidmore

To the Department of State.

SUBJECT:-Acknowledges receipt of Department's Circulars.

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AMERICAN LEGATION, TOKIO, JAPAN,

October 30, 1905.

To the Honorable Francis B. Loomis,

Assistant Secretary of State,

Washington.

Sir:-

I have the honor to acknowledge the receipt of the Department's Circulars of June 7, 29, July 3, 19, 20, August 1, 18, 31, September 9, and 22, 1905.

I have the honor to be,

Sir,

Your obedient servant,

Geo. H. Scidmore

Consular Clerk.

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AMERICAN LEGATION, TOKIO, JAPAN,

No. 327. November 6, 1905.

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Mr. Griscom to Mr. Root.

SUBJECT:-Steamships "Centennial" and "Barracouta" released by Japanese Government.

Expression of appreciation of action conveyed to Minister for Foreign Affairs.

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AMERICAN LEGATION, TOKIO, JAPAN,

No. 327. November 6, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm, as appended hereto on the overleaf, an interchange of telegrams, dated October 25 and 28, 1905, relative to the release of the captured American steamships "Centennial" and "Barracouta."

The "Centennial" was released on the 2nd instant and cleared from Yokohama this morning, bound to Vladivostock.

The "Barracouta" was released yesterday and is now taking in coal to enable her to complete her voyage.

In accordance with your instructions, I have this day addressed to the Minister for Foreign Affairs a note, a copy of which is herewith enclosed, expressing appreciation of the prompt and considerate action of His Imperial Japanese Majesty's Government in this matter.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

ENCLOSURE:-Mr. Griscom to Count Katsura, November 6, 1905.

(Copy of Telegram sent October 25, 1905)

Secstate, Washington.

October 25, 3, P. M. The Emperor of Japan has decided as an act of grace to release ships captured during the armistice provided owners of ships and cargoes relinquish all possible claims for damages The Minister for Foreign Affairs wishes to know if the Barracouta and Centennial desire to avail of this.

Griscom.

(Copy of Telegram received October 28, 1905)

Griscom, Amlegation, Tokio.

Owners Barracouta and Centennial desire to avail Emperor's determination to release ships and they consent to relinquish all possible claims for damages by reason the seisure and detention said vessels and their cargoes Express to the government of Japan our appreciation their prompt and considerate action.

Root.

(Enclosure with Mr. Griscom's No. 327 of November 6, 1905)

COPY.

AMERICAN LEGATION,

No. 183. November 6, 1905.

Monsieur le Ministre:-

In connection with the release from detention at Yokosuka of the American steamships "Centennial" and "Barracouta," in accordance with Imperial Ordinance No. 228, of November 2, 1905, it gives me much pleasure to inform Your Excellency that I am instructed by my Government to express its sincere appreciation of this prompt and considerate action by the Imperial Japanese Government.

I avail of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Lloyd C. Griscom.

AMERICAN LEGATION,
TOKIO.

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Mr. Griscom to Mr. Root.

Subject:- Prostitues (American) in Japan.

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AMERICAN LEGATION,
TOKIO.

No. 328. November 6, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to acknowledge the receipt of your instruction No. 138, of August 21st last, enclosing a copy of an extract from a letter addressed to the President with regard to the traffic of American prostitutes in the Orient, and directing me to make a full report on the subject with respect to Japan.

I have now the honor to report that, as far as can be ascertained, there are no American prostitutes resident in the city of Tokio. There are doubtless times when there are immoral women at the various hotels as transient guests, but there are no American houses of prostitution or houses where any disreputable American women are lodged. I have carefully read the reports of our Consuls at Yokoaham, Kobe and Nagasaki, which have already been forwarded to you. From these reports it will be seen that there are no American prostitutes in Japan with the exception of some six in Yokohama, and these are concentrated in two houses. It would seem therefore that the situation described in the letter to the President does not exist in Japan. The truth probably is that the Japanese prostitute is sufficiently attractive to leave very little demand for Americans or foreigners of any other nationality. Although the disgraceful traffic described by the President's correspondent does not have any foothold

in

in Japan, yet if the reports of travellers and others may be believed such conditions do exist in China.

I have the honor to be,

Sir,

Your obedient servant,

Lyrch Wisconsin.

Send Copy to Secy Navy

AMERICAN LEGATION,
TOKIO.

Secretary of State.
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November 6, 1905.

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ASSISTANT SECRETARY,
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Mr. Griscom to Mr. Root.

Sent to Navy Dept. Dec. 7 W.C.

Subject:- "Wisconsin" at Yokohama; exemplary conduct of her crew.

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UNITED STATES LEGATION,
TOKIO.

No. 329. November 6, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to report that during the recent review of the whole Japanese fleet by the Emperor in Yokohama Harbor it happened that the American battleship "Wisconsin", commanded by Captain Richardson Clover, was in that port at the same time. A large squadron of the British Fleet was also present and for several days a succession of festivities occurred in honor of, first, the British fleet, and later, Admiral Togo and the Japanese fleet.

I deem it worthy of particular mention that throughout this whole period the conduct of the members of the crew of the "Wisconsin" while on shore leave was exemplary. The occasion was one offering great temptations to the seamen and yet, as far as I can ascertain, there was not a single case of drunkenness or disorderly conduct on the part of her men. The matter was a source of pride and satisfaction to this Legation and other Americans resident in Japan.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

AMERICAN LEGATION,
TOKIO.

No. 330. November 6, 1905.

RECEIVED DEC 7 1905 DEPARTMENT OF STATE

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ASSISTANT SECRETARY, DEC 2 1905

CHIEF CLERK DEC 2 1905 DEPARTMENT OF STATE.

Mr. Griscom to Mr. Root.

Ack'd Dec 9

Subject:--Consular officers for Dalny refused exequaturs for the present.

INDEX BUREAU DEC 12 1905 FILED

AMERICAN LEGATION,
TOKIO.

No. 330. October 6, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to acknowledge the receipt of the Department's instructions Nos. 136 and 139 of the 14th and the 29th August, enclosing the commission of Mr. Jones, Consul-General for Dalny, and the certificate of Mr. Tyssowski, the Vice-Consul, and directing me to apply for their formal recognition.

I enclose herewith copies of my notes sent the Minister for Foreign Affairs in pursuance of these instructions, and also a copy of his reply dated the 4th instant, declining to issue the desired exequaturs at this time.

I have repeatedly spoken of this matter at the Foreign Office but the Japanese authorities maintain that as Dalny is at present needed for purely military purposes foreign consular officers cannot be received there until normal conditions are reestablished.

I will notify Mr. Jones and Mr. Tyssowski, who are at present in Yokohama, of this decision of the Japanese Government, and will retain their commission and certificate subject to your further instructions. I have been unable to obtain even an informal opinion from the authorities as to when the situation will permit of the recognition of the consuls.

I

I have the honor to be,

Sir,

Your obedient servant,

Thos. W. Griscom.

LOSURES:

1. Mr. Griscom to Count Katsura, September 18.
2. Mr. Griscom to Count Katsura, September 25.
3. Baron Komura to Mr. Griscom, November 4.

osure No. 1 with Mr. Griscom's No. 330, November 6, 1905.

(Copy)

No. 179. AMERICAN LEGATION,

Tokio, September 18, 1905.

Monsieur le Ministre,

By direction of my Government I have the honor to request that an exequatur may be issued to Mr. John Edward Jones, of the District of Columbia, appointed Consul-General of the United States at Dalny.

With a view to the desired recognition of Mr. Jones in his official capacity, I have the honor to transmit his commission herewith for Your Excellency's inspection.

I avail etc.

Signed: Lloyd C. Griscom.

s Excellency

Count Katsura Taro,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

losure No. 2 with Mr. Griscom's No. 330, November 6, 1905.

(Copy)

No. 182. AMERICAN LEGATION,

Tokio, September 25, 1905.

Monsieur le Ministre,

By direction of my Government I have the honor to transmit herewith for Your Excellency's inspection the certificate of appointment of Thaddeus M. Tyssowski, of the District of Columbia, as Vice-Consul of the United States of America at Dalny, Manchuria, and to request that Mr. Tyssowski be formally recognized in his official capacity by the Imperial Japanese Government.

I avail etc.

Signed: Lloyd C. Griscom.

His Excellency

Count Katsura Taro,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

losure No. 3 with Mr. Griscom's No. 330, November 6, 1905.

(Copy)

Translation.
Confidential.

DEPARTMENT OF FOREIGN AFFAIRS,

Tokio, November 4, 1905.

No. 7.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's two notes Nos. 179 and 182, respectively dated the 18th and 25th September, informing of the appointment by the United States Government of Mr. John Edward Jones as Consul-General and Mr. Thaddeus M. Tyssowski as Vice-Consul both at Tairen, and requesting for the issue of Exequaturs in recognition of their capacities as such.

It is with much regret to inform you that in view of the fact that Tairen is still principally used for military purposes in connection with the withdrawal of the Imperial forces, the Imperial Government are unable to recognize foreign consuls in that locality, until normal order of things shall be fully established there. I beg therefore to return herewith the commissions enclosed in your notes.

I avail etc.

Signed: Baron Komura Jutaro,
Minister for Foreign Affairs.

s Excellency Lloyd C. Griscom,

Envoy Extraordinary etc., etc.

AMERICAN LEGATION,
TOKIO.

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Mr. Griscom to Mr. Root.

Subject:--Mr. Griscom's leave of absence.

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AMERICAN LEGATION,
TOKIO.

No. 331. November 6, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to confirm my telegram of the 24th ultimo, requesting leave of absence, and the Department's reply received the 27th, as follows:

Secstate, Washington.

October 24, 1 p. m. Whenever you think the situation permits, I would like leave to return to the United States.

Griscom.

Amlegation, Tokio.

Leave granted.

Root.

Availing of this permission, it is my intention to sail for San Francisco by the by the "Manchuria" leaving the 18th instant.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

TELEGRAM RECEIVED IN CIPHER

Secretary of State.
NOV 6 1905

BUREAU OF APPOINTMENTS
NOV 6 1905
Department of State.

From Tokio, November 6, 1905.

(Received 2:51 P.M.)

DIPLOMATIC BUR. DEPT. STATE RECEIVED NOV 6 1905

TELEGRAM RECEIVED IN CIPHER

Secretary of State.
NOV 6 1905

BUREAU OF APPOINTMENTS
NOV 6 1905
Department of State.

From Tokio, November 6, 1905.

(Received 3:12 P.M.)

Secretary of State,

Washington.

November 6, 8 P.M.

Marquis Ito has started for Seoul to investigate conditions and develop Japanese policy in Korea.

GRISCOM.

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red by C.R.D.

Bureau of Appointments.

TELEGRAM RECEIVED IN CIPHER

Secretary of State.
NOV 6 1905

BUREAU OF APPOINTMENTS
NOV 6 1905
Department of State.

From Tokio, November 6, 1905.

(Received 2:51 P.M.)

Oct 15-8 PM

Secretary of State,

Washington.

November 6, 10 P.M.

Baron Komura left here for Peking to-day, special Ambassador to negotiate matters requiring under the Portsmouth treaty consultation with the Chinese Government.

GRISCOM.

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ered by C.R.D. Bureau of Appointments.

AMERICAN LEGATION,
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RECEIVED DEC 6 1905 DIPLOMATIC BUR. DEPT. OF STATE

No. 332. November 9, 1905.

ASSISTANT SECRETARY, DEC 2 1905

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CHIEF CLERK DEC 2 1905 DEPARTMENT OF STATE.

Mr. Griscom to Mr. Root.

Relay Comm.
Rec'd Dec. 5, 1905.
Noted & forwarded
to Dipl. Bureau
Dec. 6, 1905.

Subject:- Commercial reciprocity tariff with the United States suggested by a leading Japanese newspaper.

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AMERICAN LEGATION,
TOKIO.

No. 332. November 9, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r:

I have the honor to transmit herewith for your information and as of interest to the Department a translation of an editorial which appeared on the 5th instant in the "Jiji "Shimpo", one of the most powerful newspapers in Japan.

The article recommends that the Japanese Government endeavor to make with the United States a treaty providing for reciprocal tariff advantages, and discusses the subject in several of its bearings. I understand that the principal Japanese exports which it would be hoped to increase are manufactured silk and matting. Flour and petroleum are mentioned as American exports to Japan which might be given the benefit of a more favorable duty.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

LOSURE:

Translation, as noted.

AMERICAN LEGATION,
TOKIO.

No. 332. November 9, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to transmit herewith for your information and as of interest to the Department a translation of an editorial which appeared on the 5th instant in the "Jiji "Shimpo", one of the most powerful newspapers in Japan.

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I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

LOSURE:

Translation, as noted.

Enclosure with Mr. Griscom's
No. 332 of Nov. 9, 1908.

CONCLUDE A TREATY OF RECIPROCITY WITH AMERICA.

A treaty of reciprocity with America has recently been suggested on the ground that it will prove beneficial to the post-bellum trade between both countries, and it is interesting to note that the public is paying attention to the suggestion. America has long been conspicuous for its protective tariff, and there are not a few staple products of Japan that suffer on account of the heavy duties the United States Government charges. Owing to the remarkable progress the manufacturing industry of America has recently made, the state of things now is not as it used to be, and her industry is not in need of excessive protection quite so much as in the past. Moreover, America is now in a position successfully to compete with Great Britain, Germany and other countries in foreign markets. The urgent need of the United States now is therefore to so reduce her import duties as to make foreign countries agree reciprocally to reduce their duties on American merchandise. This is the way to extend the markets for American manufactured goods and at the same time to promote her home industries.

The treaties of reciprocity that America concluded with France, Germany and Italy after 1898 in accordance with the provisions of the Dingley Bill expire in five years from the date of conclusion. If either of the contracting parties notifies the other one year beforehand, the treaty will be annulled. Now the treaties referred to are shortly to expire, and Germany has recently passed a new tariff law, while the new commercial treaty is to take effect

early in 1906. Should Germany then notify the United States of the annullment of the present treaty of reciprocity and begin to impose high duties for the purpose of protecting her home industry, especially agriculture, America's export trade would receive a severe blow. It appears that the traders and manufacturers of the United States are calling the attention of the Government to this question in order to avoid the possible danger on the one hand and to extend the markets for American goods on the other. The suggestion to conclude a treaty of reciprocity with the United States at this time is opportune, and we do not hesitate in endorsing it.

According to Article XIV of the Commercial Treaty between Japan and the United States, the most favored nation principle is to be applied conditionally. Since, however, Japan's tariff agreements with Great Britain, Germany and France were concluded without compensation, it is natural that American goods share the advantages contained therein. It will therefore be seen that with or without any treaty of reciprocity America enjoys the benefit of the tariff agreements. But Japan is now charging, by virtue of the Emergency Special Taxation Act, 25% and 50% duties respectively on American flour and petroleum. There is some hope of concluding a treaty of reciprocity if we propose to reduce the duties on American flour and petroleum and make America reduce her duties on our silk and matting. Though the silk industry of the United States at Patterson and vicinity has made considerable progress recently, due to protection, yet the reduction of duties on American flour and petroleum, the exportation of which annually amounts to $10,000,000, is not

an insignificant matter. On Japan's part, flour and petroleum are her people's daily necessaries, and the reduction of the rate of duties on them will be a boon to Japanese consumers. On the other hand, if the United States reduce her duties on Japanese goods, Japan's foreign trade will be greatly stimulated.

The measures hitherto taken by our Government for the purpose of encouraging foreign trade have not been effective, one of them being the examination of merchandise to be exported. A measure like this often does more harm than good to the foreign trade of Japan. If the Government really means to encourage the country's foreign trade, it should endeavor to get acquainted with the economic conditions abroad and adapt our policies to them. The suggestion of concluding a treaty of reciprocity is, in our opinion, the first step in this direction.

(The Jiji Shimpo editorial, November 5, 1905.)

TELEGRAM RECEIVED.

BUREAU OF APPOINTMENTS
NOV 10 1905
Department of State.

RECEIVED
NOV 10 1905
DIPLOMATIC BUR. DEPT. OF STATE

Secretary of State.
NOV 10 1905.
10 10 A.M.

From Washington

Dec State

Received

Washington

Tenth Copyright Convention

signed today

Griscom

DIPLOMATIC BUREAU
DEC 8 1905
FILED

8/12/05 Lib. of Congress.

6/3/04

Feb 21/04 Am. copyright Union

CHIEF CLERK'S OFFICE
NOV 10 10 A.M. 1905
DEPARTMENT OF STATE

DEPT OF STATE
DEC 2 1905
2ND ASST SECRETARY

DIPLOMATIC BUREAU.

Usual treatment. ok.

AMERICAN LEGATION,
TOKIO.

No. 333. November 10, 1905.

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DEC 2 1905
DEPARTMENT OF STATE.

Mr. Griscom to Mr. Root.

To Gov. in Gov. in Treaty sent to the Senate 12/5/05

Subject:- Copyright Convention between the United States and Japan signed.

Dear Mr Wilson -

Here are the two notes defining the word "published" in the treaty; the question of implicit ratification of the Japanese text is disposed of in the protocol of exchange of ratifications. All these papers, as well as a telegram from the Dept. authorizing acceptance of the Japanese conception of the word "published" have been copied and sent to the Printing Office - Count Katsura's note although marked "Confidential" is so essential a part of the treaty that there can hardly be any objection to its publication

Yrs.

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ited States

Secretaries of March 9, 1906. S.J.S.

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FEB 19 1906
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DEPARTMENT OF STATE.

Second Assistant Secretary's Room.

MEMORANDUM. Jan. 9. 1906.

Dear Mr. Scott:

The Japanese convention and the explanatory correspondence should, I think, be referred to the Attorney General for opinion whether its terms can be deemed, in the President's discretion, to give to American citizens in Japan, for the benefit of copyright, substantially the same basis as Japanese subjects, thereby permitting its proclamation by the President under the Act of March 3, 1891, or whether it requires to be submitted to the Senate with a view to obtaining the advice and consent of that body to its ratification.

Answer Mr. Reibold:

1. It has not yet been laid before the Senate.
2. No report from Japan in regard to its ratification.

exclusive right [illegible]

Germany, or be submitted to the Senate on account of the inclusion of translations from the operation of the Convention. That was the condition insisted on by Japan, and, as shown by the letter of March 27 from the Librarian of Congress, agreed to by the Register of Copyrights and the most interested American publishing houses.

There is no report from Japan in regard to the ratification of the Convention there

Dear Mr. Adee:

I am in great doubt whether we will not have to submit this Japanese copyright convention to the Senate. While it may be said that it "permits to citizens of the U.S. the benefit of copyright on substantially the same ~~basis~~ as" Japanese subjects, a condition the existence of which is given by ~~the~~ that to the President to determine, still in my opinion it second article runs contrary to our copyright law (Section 4952) which provides that "authors or their assigns shall have ~~x~~ exclusive right to ~~x~~ translate

Germany, or be submitted to the Senate on account of the exclusion of translations from the operation of the Convention. That was the condition insisted on by Japan, and, as shown by the letter of March 27 from the Librarian of Congress, agreed to by the Register of Copyright and the most interested American publishing houses.

There is no report from Japan in regard to the ratification of the Convention there

any of their works for which copyrights shall have been obtained under the laws of the United States."

Jany. 8. J. J. Smith.

January 9, 1906

Mr. Adee.

As you will see from Mr Smith's memorandum, attached to No 338 from Japan, the Diplomatic Bureau is still in doubt whether the Convention may be ratified by the President, without the advice and consent of the Senate, as was done with the Convention with Germany, or be submitted to the Senate on account of the enclosure of translations from the operation of the Convention. That was the condition insisted on by Japan, and, as shown by the letter of March 27 from the Librarian of Congress, agreed to by the Register of Copyright and the most interested American publishing houses.

There is no report from Japan in regard to the ratification of the Convention there

Mr

AMERICAN LEGATION,
TOKIO.

No. 333. November 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to confirm the following telegram sent you this afternoon:

"Tenth. Copyright Convention signed today.

"Griscom."

At 4 o'clock this afternoon, at the Foreign Office, the Copyright Convention between the United States and Japan was signed by Count Katsura as Minister for Foreign Affairs and by me. The English and Japanese texts are enclosed herewith. At the request of the Japanese Government, who foresaw possible doubt as to the meaning of the word "published" as used in Article III, I exchanged notes with Count Katsura, concurring in the interpretation "Pub-"lished for the first time". Copies of the notes exchanged are also transmitted herewith.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd C. Griscom.

SURES:

1. Copyright Convention, in English and Japanese.
2. Count Katsura to Mr. Griscom, November 10.
3. Mr. Griscom to Count Katsura, November 10, 1905.

(Enclosure No. 2 with Mr. Griscom's No. 333 of November 10, 1905)

COPY.

DEPARTMENT OF FOREIGN AFFAIRS,

Translation.
Confidential.
No. 8.

Tokio, November 10, 1905.

Monsieur le Ministre,

With reference to Article III of the Copyright Convention signed this day between Japan and the United States of America, I have the honour, in order to avoid any possible misunderstanding in future, to declare that the Imperial Government take the word "published" used in the said Article as intended to mean "published for the first time", and consequently that the Convention shall not be applicable to any reproduction in future in one of the two contracting countries of works published in the other country prior to the exchange of ratifications. The Imperial Government should be much gratified to be assured that Your Excellency's Government concur in the interpretation above given.

I avail myself of this occasion to renew to your Excellency the assurances of my highest consideration.

Signed: Count Katsura Taro,
Minister for Foreign Affairs.

(Enclosure No.3 with Mr. Griscom's No.331 of November 10, 1905)

COPY.

AMERICAN LEGATION, TOKIO,

No. 189. November 10, 1905.

Monsieur le Ministre:-

In reply to Your Excellency's note of to-day, regarding the meaning of the word "published," used in Article III of the Copyright Convention signed this day between the United States of America and Japan, I have the honor to state that the American Government entirely concurs in the interpretation given by the Imperial Japanese Government to the said word "published" and that the said Convention shall not be applicable to any reproduction in future in one of the two contracting countries of works published in the other country prior to the exchange of ratifications.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

LLOYD C. GRISCOM.

AMERICAN LEGATION,
TOKIO.

RECEIVED
DEC 4 1905
DIPLOMATIC BUR. DEPT. OF STATE.

No. 334. November 10, 1905.

ASSISTANT SECRETARY,
DEC 2 1905

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Mr. Griscom to the Secretary of State.

Subject:-

Confirming telegram relating to Marquis Ito's mission.

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AMERICAN LEGATION,
TOKIO.

No. 334. November 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm my telegram to you of the 6th instant, which, deciphered, reads as follows:

"Marquis Ito has started for Seoul to in-
"vestigate conditions and develop Japanese policy
"in Korea".

"Griscom".

The Japanese have been very secretive over the precise purpose of Marquis Ito, but he carries an autograph letter from the Emperor of Japan to the Emperor of Korea, and the Marquis himself informed me that he proposed to give the latter some excellent advice. What now seems most probable is that Marquis Ito will arrange that the foreign relations of Korea shall be conducted in future at Tokio. The Marquis also informed me that in view of the many reports current that the Japanese in Korea are not treating the Koreans properly he proposes to give some excellent advice to his own countrymen there. He said that the American Government could feel sure that whatever he did in Korea would be perfectly fair and just to everybody concerned. The selection of a man of Marquis's importance and rank indicates that the move will be a serious one.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd C. Griscom.

AMERICAN LEGATION,
TOKIO.

No. 334. November 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

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I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

AMERICAN LEGATION,
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No. 335. November 10, 1905.

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Mr. Griscom to the Secretary of State.

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Subject:-

Baron Komyra's departure for China,- confirming telegram.

AMERICAN LEGATION,
TOKIO.

No. 335 November 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm my telegram to you of the 8th instant, which, deciphered, reads as follows:

"Baron Komura left here for Peking today
"Special Ambassador to negotiate matters requiring
"under the Portsmouth treaty consultation with the
"Chinese Government."

"Griscom".

Immediately before Baron Komura's departure from Tokio he called upon me and informed me that he had been appointed special ambassador and directed to proceed to Peking to negotiate matters requiring, under the Treaty of Portsmouth, consultation with the Chinese Government. He stated that he anticipated considerable difficulty, but his policy would be to concede, wherever possible, to the wishes of the Chinese Government. He considered that the most important part of his mission was to arrange for the operation of the principle of equal opportunities in Manchuria. He stated that the principal ports of Manchuria are already open to foreign trade and it was now important to cause the principal cities and towns in the interior to be opened. This he considered a work in which he would have the interest and sympathy of the American Government. I asked him in what manner he proposed to secure the opening of these towns but he replied

that

that this was not yet clear. He also stated that he considered it most important that good connecting arrangements should be made between the Japanese and Russian parts of the Chinese Eastern Railway. He feared that Russia might very likely endeavor to make Vladivostock rather than Dalny the principal Pacific terminus for Transcontinental freight and passengers. It was of the greatest importance to Japanese interests that arrangements should be made which would bring the flow of travel and traffic to Dalny. The matter of the acquisition by Japan of the lease of the Liaotung Peninsular he did not discuss with me.

A member of his staff mentioned to me that it was hoped that the negotiations would be completed in a month or thereabouts.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom

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TOKIO.

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Mr. Griscom to the Secretary of State.

Subject:-

Confirming telegrams relating to Mr. Miller's leave.

UNDER BUREAU
DEC 4 1905
FILED

AMERICAN LEGATION,
TOKIO.

No. 336. November 10, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

I have the honor to confirm my telegram of October 27 and the Department's reply of the 2nd instant relating to the request of Mr. Miller, Interpreter of this Legation, for leave of absence with permission to visit the United States, reading as follows:

Tokio October 27, 1905.

Secstate, Washington.

Miller requests leave to return to the United States. I approve.

Griscom.

Washington , November --, 1905.

Amlegation, Tokio.

Leave of absence is granted Miller if legation's work will admit his and your absence at the same time.

Root.

Referring to the Departments telegram I have the honor to state that in my opinion the work of the Legation will admit of Mr. Miller's absence just at this time as it is understood that the working sessions of the Diet will not begin until next year and Mr. Miller has made arrangements with Professor Ernest W. Clement to fill his place temporarily as he did under similar circumstances in 1896.

Furthermore

Furthermore Mr. Wilson, who will be Chargé d'Affaires during the time Mr. Miller will be absent, has such a considerable knowledge of the Japanese language and is so thoroughly conversant with the work of this Legation that he is fully qualified to conduct it with the help of Messrs. Laughlin and Scidmore and with such assistance as Professor Clement may be able to give temporarily.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

AMERICAN LEGATION,
TOKIO.

Send papers

No. 337. November 10, 1905.

Secretary of State.
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Mr. Griscom to Mr. Root.

Ans. Dec. 8

Subject:- Supplementary extradition treaty with Japan.

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AMERICAN LEGATION,
TOKIO.

No. 337. November 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to acknowledge the receipt of your instruction No. 142 of the 13th ultimo, to the effect that, if the Japanese Government objects to including in the proposed supplementary extradition treaty the offence of bribery with a definition thereof, that offence may be omitted and embezzlement and larceny only included, as agreed upon heretofore.

The Japanese Government adheres to its objection to the inclusion of bribery with a definition. It is now prepared, however, to make a convention with the United States according to the formerly submitted draft, omitting all reference to bribery.

The draft referred to was forwarded to the Department as enclosure No. 6 with my dispatch No. 205 of March 13th, 1905.

If the Department will send full powers to Mr. Huntington Wilson, who will be chargé d'affaires after my departure, he will be able to proceed at once to the signature of a supplementary extradition treaty with Japan similar to the above mentioned draft, with the exception noted.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd Griscom.

AMERICAN LEGATION,
TOKIO.

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DEP. OF STATE.

Mr. Miller to the Secretary of State.

Subject:- Return to the United States.

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DEC 9 1905
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AMERICAN LEGATION,
TOKIO.

No. X November 10, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to report that, availing myself of leave of absence granted me by the Department's telegraph ic instruction of the 2nd instant, I purpose to return to the United States with Mr. Griscom, sailing from Yokohama by the S.S."Manchuria" on the 18th of this month.

I have the honor to be,
Sir,
Your obedient servant,

Ransford S. Miller.

Interpreter of Legation.

AMERICAN LEGATION,
TOKIO.

No. 338. November 12, 1905.

Japan Mr. Campbell
Ack'd Dec 18

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DEC 11 1905

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Mr. Griscom to Mr. Root.

Ackd and to H.B. Campbell Dec. 18

SUBJECT:-Property left at Port Arthur by Mr. H. B. Campbell.

Copies of reports from Japanese Authorities enclosed.

INDEX BUREAU
DEC 26 1905
FILED

AMERICAN LEGATION,
TOKIO.

No. 338. November 12, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:-

In reply to the Department's Instruction No. 137, of August 14, 1905, relating to certain property abandoned at Port Arthur by Mr. H. B. Campbell prior to the outbreak of the Russo-Japanese war, I have the honor to transmit herewith copies of translations of a note from the Japanese Minister for Foreign Affairs, dated November 8, 1905, and of a report from the Military Authorities at that place, from which it appears that a quantity of iron tubes and accessories have been found in premises formerly occupied by Messrs. Mironoff and Krivenko, and that, as to property alleged to have been left in the warehouse of Messrs. Clarkson and Company, no articles corresponding to those in Mr. Campbell's list have been found.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

ENCLOSURES-Copies:-

1. Count Katsura to Mr. Griscom, November 8, 1905.
2. Report from Authorities at Port Arthur.

(Enclosure No. 1 with Mr. Griscom's No. 338, of November 12, 1905)

COPY.

Translation. DEPARTMENT OF FOREIGN AFFAIRS,

No. 71. Tokio, November 8, 1905.

Monsieur le Ministre:

With reference to the property left at Port Arthur by Mr. H. B. Campbell, formerly a resident of that place, relating to which Baron Komura addressed to your Excellency an informal note under date of the 2nd inst., I am now in receipt from the Minister of War of a report prepared by the Military Authorities at Port Arthur on the result of investigations made on the subject, to which I have the honor to call your attention. The Minister adds that as to the admittance to Port Arthur for the recovery of the property found there, which is now under consideration, further communications will be made as soon as the matter shall have been settled.

I avail myself of this occasion to renew to your Excellency the assurances of my highest consideration.

Signed: Count Katsura Taro,
Minister for Foreign Affairs.

His Excellency
Lloyd C. Griscom,
Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.

(Enclosure No. 2 with Mr. Griscom's No. 338 of November 12, 1905)

COPY.

Translation.

1. Mironoff and Krivenko are not at present staying at Port Arthur, nor did they appoint any person to take charge of their property. There is however a building facing the shore of New Town with a sign board bearing the names of Mironoff and Krivenko. Upon an investigation made in the premises of the building, four barrels and one box containing 25 iron tubes of 4 inches in diameter and about 16 feet long, with accessories, have been found.

2. With regard to the articles alleged to have been placed in the warehouse of Clarkson & Co., it has been ascertained that one Owsoyen(?) (nationality unknown), manager of the Company, left Port Arthur, leaving charge of the property belonging to the Company with Kaoru Goto, a Japanese, by a letter under date of the 17th of January last. The said Goto confided afterward the custody of the property to another Japanese, Asataro Yamashita, but the letter of authorization held by the latter having been found imperfect at the time when the investigation of lands and buildings was instituted in the latter part of July last at the Port Arthur Branch Office of Kwantoshiu Civil Administration Department, it was decided that the property concerned should be placed under the custody of the said Branch Office, pending the arrival of a properly authorized custodian of the property of Clarkson & Co., and thus the Office has since been and is now taking charge of all the property belonging to the said Company. The Branch Office has therefore been consulted about the matter under inquiry, and an examination made in the warehouse of the Company, but nothing has been found that corresponds to any of the articles specified in the list.

3. From

3. From the foregoing facts, it will be seen that the articles now existing at Port Arthur which correspond to those enumerated in the list are only those set forth in the first clause above.

UNITED STATES LEGATION,
TOKIO.

No# November 14, 1905.

ASSISTANT SECRETARY,
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Mr. Laughlin to Mr. Root.

Asked Dec. 18

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BUR. ACCOUNTS. DEP. OF STATE.

SUBJECT: Mr. Laughlin, 2nd Secretary, returns to his post from leave.

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UNITED STATES LEGATION,
TOKIO.

November 14, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to report that I have returned from leave and today resumed my official duties.

I have the honor to be,
Sir,
Your obedient servant,

2nd Secretary.

UNITED STATES LEGATION,
TOKIO.

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No. #

November 15, 1905.

accept + Pd Draft
to May Branch Jan 17-06

To the Honorable Elihu Root,

Secretary of State,

Washington.

Sir:

I have the honor to transmit herewith statement of my account for funds advanced to Major General Arthur MacArthur, U.S.A., as instructed by the Department on March 1, last.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Griscom.

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JAN 16 1906
FILED

Enclosure:

Statement of account as noted.

Rec'd, Bu. Accts.

Re W. H. Govt

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NOV 19 1905
Department of State.

ASSISTANT SECRETARY,
NOV 20 1905

From Tokio

Nov 19th, 1905.

Dec State Washn.

CHIEF CLERK,
NOV 20 1905
Department of State.

RECEIVED
NOV 21 1905
DIPLOMATIC BUR. DEPT. OF STATE.

10 45 9 M.

Nineteenth. Minister sailed San Francisco today. Have taken charge.

Wilson

Confirmed Nov. 22 Rid

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Secretary of State.
NOV 20 1905

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DIPLOMATIC BUR. DEPT. OF STATE.

From Tokio,

November 19,1905,

Rec'd 10.55 a.m.

Secretary of State,

Washington.

November 19,12 p.m. "MONTARA" was condemned in lower Prize court upon the ground of being in the service of the Russian Government. Appeal lies in this case until 24th instant,but the Lloyds,underwriters,to whom all parties interested have abandoned,have not yet informed their attorney here as to whether to appeal.

WILSON.

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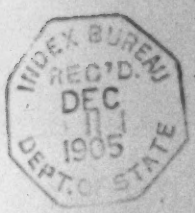
FILED

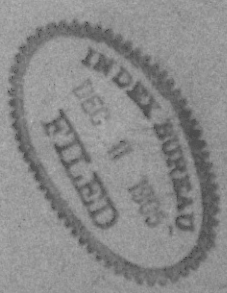
AMERICAN LEGATION,
TOKIO.

No. 339. November 20, 1905.



Mr. Huntington Wilson to Mr. Root.

Subject:--Mr. Griscom leaves; Mr. Wilson takes charge.



AMERICAN LEGATION,
TOKIO.

No. 339. November 20, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I beg to confirm the following telegram, which I had the honor to dispatch to you yesterday:

"Nineteenth. Minister sailed San Francisco today.
"Have taken charge.

"Wilson."

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

RECEIVED
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DIPLOMATIC BUR. DEPT. OF STATE.

No. 340. November 22, 1905.

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Mr. Huntington Wilson to Mr. Root.

Ans Dec 18

Subject:--Property left at Port Arthur and Dalny by Americans

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AMERICAN LEGATION,
TOKIO.

No. 340. November 22, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to report herein the situation in regard to American property left at Port Arthur and Dalny at the beginning of the war.

Ever since the fall of Port Arthur this legation has been in correspondence with Americans seeking information as to their properties abandoned there and at Dalny at the outbreak of the Russo-Japanese war.

The Legation has brought each case to the attention of the Japanese Foreign Office, transmitting at the same time lists of the properties of the claimants and all obtainable data. As a result the War Department has caused the military authorities at those towns to make investigations, and their report on each case has later been transmitted to us. Owing to the confusion said to have existed at Port Arthur and Dalny and to this cumbrous method of attempting to locate the properties the military reports have necessarily failed to throw any sufficient light upon most of these cases.

The Legation has therefore frequently urged upon the Japanese Government the necessity of providing means for more direct and effective investigation. It was suggested that representatives or a representative of the American claimants should be permitted to go to Port Arthur to investigate in cooperation with some Japanese official authorized

ized for the purpose. But this the authorities have steadily declined to do on the grounds of military reasons, while reiterating their promise of the fullest protection to all private property found at Port Arthur and Dalny at the time of the Japanese occupation.

It would seem that there can be no cogent reasons why, at this late date, the authorities should still decline to allow the interested parties to go and investigate their affairs on the spot. In the hope of obtaining permission to do so for the Americans affected, I had yesterday a long interview with Lieutenant General Ishimoto, Vice Minister for War, who has this subject in hand, and strongly represented the matter to him. In reply he said they were engaged in making the regulations and arrangements necessary to the investigations, and begged that we wait a little longer. Finally, he agreed to expedite the matter as much as possible, and, when asked how much longer he thought the delay would be, gave me to understand that the interested parties might go to Port Arthur and Dalny in a fortnight.

The Americans concerned whose statements this legation has handed to the Foreign Office are:

The American Trading Company

Clarkson & Company, of Vladivostock, Port Arthur, Dalny, Harbin, Shanghai, etc.

M. S. Friede & Company, of Shanghai and New York

W. Toritch

Henry Marco

The Boston Steamship Company (<u>in re</u> cargo of "Pleiades" landed at Port Arthur)

Beatrice Bavanda

H. B. Campbell

Alberta Black

The American depositors in the Port Arthur branch of the Russo

Russo-Chinese Bank.

Not without reason those interested are becoming impatient at being still refused permission for the direct investigation of their affairs. The President of the American Trading Company called here a few days ago to renew the request that his agent be allowed to proceed to Port Arthur, and similar requests reach the Legation from Shanghai, where most of the interested parties are represented.

As a result of my interview at the War Department, I have today informed the American Trading Company and telegraphically requested our Consul-General at Shanghai to inform the interested Americans there that I expect to secure within a fortnight permission for them to visit Port Arthur and Dalny to investigate their properties abandoned there.

I have the honor to be,

Sir,

Your obedient servant,

Hartwig Conliebson.

AMERICAN LEGATION,
TOKIO.

No. 341. November 22, 1905.

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Dup

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Steamship "Montara" condemned by Japanese Prize Court.

Confirms telegrams.

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AMERICAN LEGATION,
TOKIO.

No. 341. November 22, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm the interchange of telegrams between the Department and this Legation, relative to the American steamship "Montara," which, being deciphered, read as follows:

(Telegram received November 17, 1905)

"Amlegation, Tokio.

"Advise Department whether steamship Montara has "been condemned by prize court and if so on what grounds.

"Root."

(Telegram sent November 19, 1905)

"Secstate, Washington.

"November 19, 6, P. M. Montara was condemned in "the lower prize court upon the ground of being in the "service of the Russian Government Appeal lies in "this case until twenty fourth instant, but Lloyds Under-"writers, to whom all parties interested have abandoned, "have not yet informed their attorney here as to whether "to appeal. Wilson."

I am now informed by the Yokohama agents for Lloyds underwriters that their attorney will to-day file an appeal from the judgment rendered by the Yokosuka Prize Court against both the steamships "Montara" and "Australia."

The

The judgment against the "Montara" has not yet been officially published, but the Japanese Navy Department has lent me an uncertified copy. From the text of this it appears that the vessel was captured at Bering Island, August 16, 1905, while finishing the discharge of her cargo, and her condemnation is based upon the fact that she was then under charter to the Kamschatka Commercial Company, and that, realizing the insufficiency of Russian vessels, which had before the war the sole right to trade with the Commondorsky region, a special license had been granted by the Russian Government to that company and to the Eastern Siberian Company to charter vessels of other nationality, and that the "Montara" was availing of a special privilege that only Russian vessels could enjoy in time of peace.

I hope to be able to forward by the next outgoing mail a full and exact translation of this judgment.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

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TOKIO.

No.342. November 23, 1905.

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Dip. to Nav. Navy Dept. for their information

Navy Dept. Dec. 16

MR. HUNTINGTON WILSON TO MR ROOT.

SUBJECT: Submarine mines laid near Vladivostock by the Japanese during the war.

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AMERICAN LEGATION,
TOKIO.

No. 342. November 23, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to enclose herewith, as of interest to the Department, two copies of a communication received at this Legation from the Combined Military and Naval Headquarters, relating to the position and number of submarine mines laid down in the direction of Vladivostock by the Japanese Navy during the war.

I have the honor to be,
Sir,
Your obedient servant,

Huntington Wilson.

ENCLOSURE: Communication above noted,- 2 copies.

ENCLOSURE WITH MR. WILSON'S NO. 342 OF NOVEMBER 23, 1905.

COPY

Naval Staff of the combined
Military and Naval Headquarters.
Tokyo November 21, 1905.

In reply to the inquiry of General N. Linevitch, Commander-in-Chief of the Russian Army in the Far East, as to the position and number of the submarine mines laid down in the direction of Vladivostock by our Navy during the war, our naval authorities sent the following communication to the Russian army on the 9th instant through Marquis Oyama, Commander-in-Chief of our Manchurian Army:-

"We beg herewith to communicate to your Excellency "the position and number of mines laid down by our Navy "and the date of their mooring and request that your Excel- "lency will promptly inform us of the position and number "of the mines, if any, placed by the Russian Navy along the coasts of Korea, Saghalien, and other places, and the "date they were moored. Our mines are as follows:-

"1. Twelve mines in the sea extending from east to "south of Skripleef Island, and at a distance of 3/4 to "1 1/2 nautical miles from the island.

"2. Thirty-nine mines between a point 8 1/4 nautical "miles south of Skripleef Island and a point 1 1/4 nautical "miles to the west.

"3. Twenty-four mines between a point 6 1/2 nautical miles south of Tsivolko Island and a point 1 1/2 nautical "miles to the east. The above mines were laid down on the "28th and 29th April 1904.

"4. 715 mines laid down on April 15th 1905, on the "line connecting the northern extremity of Korsakoff Island "with Askold promontory, Askold Island."

LEGATION OF THE UNITED STATES,
TOKIO, JAPAN.

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No. 343. November 24, 1905.

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Mr. Huntington Wilson to Mr. Root.

Asst Sec. I P C

Subject:--Mr. Greene's appointment as Vice and Deputy Consul at Kobe.

Inclosure to send Mr. Greene certificate of appointment

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LEGATION OF THE UNITED STATES,
TOKIO, JAPAN.

No. 343. November 24, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to acknowledge the receipt of your instruction No. 144 of October 19, enclosing Mr. Roger S. Greene's certificate of appointment as Vice and Deputy Consul at Kobe.

As already reported, Mr. Greene was provisionally recognized, according to the Department's wishes, from the end of September. On the 26th ultimo he called to inform this legation that he was under telegraphic instructions to proceed at once to Vladivostock as Commercial Agent of the United States at that port. His certificate of appointment for duty at Kobe has therefore been filed with the Department's instruction under acknowledgment.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

No. 3444

Nov. 22, 1905.

Subject:
Land Claim of George H. Lake.

To be found with File No. 31421.

RECEIVED APR 19 1906 DIPLOMATIC BUR. DEPT. OF STATE

TELEGRAM RECEIVED IN CIPHER

BUREAU OF APPOINTMENTS NOV 25 1905 Department of State.

Secretary of State NOV 27 1905

From Tokyo, November 25, 1905.

(Received 5.27 P.M.)

Secretary of State,

Washington.

November 25, 9 P.M. Referring to the Department's telegram received August 19th, I have ascertained that the Japanese Government prefer to arrange for mutual protection of trade marks in China by a convention requiring ratification also that they are prepared to provide by the same convention for the similar protection of trade marks in Korea by means of the competent courts to be established under the Japanese Resident General and by our consular courts in Korea.

WILSON.

INDEX BUREAU FILED APR 20 1906

Deciphered by S.H.Q.

Secretary of State.
NOV 27

The telegram (cent August 18) instructed the legation to ascertain whether Japanese Govt would consent to provide for the reciprocal protection of trade marks in China by means of a protocol of agreement going into effect upon approval by the President and the Emperor Government of Japan -

Mr Rockhill had reported that the Japanese Minister at Peking thought that a convention was the only means of arranging such reciprocal protection in China, as affecting Japanese subjects.

Subject:--Trade-marks in China and Korea.

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No. 345. November 27, 1905.

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CHIEF CLERK DEC 23 1905 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:--Trade-marks in China and Korea.

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AMERICAN LEGATION,
TOKIO.

No. 345. November 27, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r:

I have the honor to confirm the Department's cipher telegram and the reply of this legation, in regard to trade-marks in China. The telegrams read as follows:

(Received August 19, 1905.)

Washington, -----

Amlegation, Tokio.

The United States Minister at Peking reports Japanese Government willing to arrange for reciprocal protection of trade-marks registered in the United States and Japan against infringement in China by citizens or subjects of the two countries but cannot do so by an exchange of notes, preferring formal convention. (Period) Department thinks Japanese requirement can be met by protocol of agreement, omitting reference to ratification, and providing that it is to take effect upon approval by the President and the Government of Japan. (Period) Each Government could then approve according to its own convenience and method. (Period) Ascertain whether this is satisfactory.

Adee.

(Telegram sent November 25, 1905.)

Tokio,-----

Secstate, Washington.

November

November 25, 9 p.m. Referring to the Department's telegram received August nineteenth, I have ascertained that the Japanese Government prefer to arrange for mutual protection of trade-marks in China by a convention requiring ratification; also, that they are prepared to provide by the same convention for the similar protection of trade-marks in Korea, by means of the competent courts to be established under the Japanese Resident-General, and by our consular courts in Korea.

Wilson.

On the day the Department's telegraphic instruction was received a memorandum of its contents was placed in the hands of the Vice-Minister for Foreign Affairs, to whom the Department's wishes were fully explained. Mr. Chinda said that he would ascertain whether Japan could make an agreement for the mutual protection of trade-marks registered in the United States and Japan against infringement in China by Americans or Japanese, to go into effect upon approval and not calling for ratification.

On October 9, in reply to Mr. Griscom's inquiries as to the state of this question, Mr. Chinda asked that the matter be postponed until Baron Komura's return from Portsmouth. In a conversation the first day of this month Mr. Chinda explained the delay in answering this legation's inquiry by the fact that there was a new Chief of the Patent Bureau, whose views must be consulted.

I called at the Foreign Office on the 25th instant and had a long talk with Mr. Ishii, the official of that Department most familiar with the matter. Mr. Ishii expressed the decided preference of his Government for a convention requiring ratification instead of an arrangement of the kind mentioned in the Department's telegram. This preference on the part of the present ministry seems to be due to considerations

considerations of convenience in domestic policy: to their wish to have the proposed agreement regularly passed upon by the Privy Council at its ratification.

The corresponding trade-mark question in Korea came up in the course of my interview with Mr. Ishii. Being aware that you had lately taken steps towards an arrangement in respect to trade-marks in Korea, I added to the telegram which I have had the honor to confirm above the assurance given me of the Japanese Government's readiness to include in a convention relating to American and Japanese trade-marks in China provision for the extension of similar protection to them in Korea.

To secure the protection of American trade-marks against infringement by Koreans, no doubt the Japanese Government would be willing to negotiate an arrangement on behalf of that country.

A large class of Japanese are particularly enterprising in imitation and very given to adopting unprotected patents, trade-marks, designs, and literary properties. It is therefore especially important that means should be provided for the safeguarding of proprietary rights of this kind, including copyright, in every place where American and Japanese merchants or products meet.

I have the honor to be,

Sir,

Your obedient servant,

Hunting Wilson.

ack'd Dec 4

TELEGRAM RECEIVED IN CIPHER.

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Department of State.

Secretary of State,
DEC 1 1905

From Tokio,

(Received 5:51 A. M., Nov. 30, 1905.)

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DEPARTMENT OF STATE.

Secretary of State,

Washington.

9:30 8 A.M. Martial law and press restrictions of September 6th removed last night.

WILSON.

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S.H.Q.

AMERICAN LEGATION,
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No. 346. November 30, 1905.

Secretary of State.
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Dec. 29

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Withdrawal of the American Legation at Seoul.

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AMERICAN LEGATION,
TOKIO.

No. 346. November 30, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to acknowledge the receipt of your telegraphic instruction received the 25th instant, which reads, deciphered, as follows:

"Amlegation, Tokio,

"In view of the recent convention "between Japan and Korea by which Japan "becomes medium for conducting foreign "relations of Korea, Legation of the "United States at Seoul has been with- "drawn and the representation of the "United States in diplomatic matters af- "fecting American rights of treaty, per- "sons, and property in Korea, is trans- "ferred to you; such questions to be "dealt with through the channel of the "Japanese Foreign Office.

"Root."

On the same day I despatched a note to the Minister for Foreign Affairs informing him of my instructions in the above sense and stating that accordingly I should thenceforth have the honor of addressing him in regard to American diplomatic interests

terests in Korea.

The reply of Count Katsura expresses the profound satisfaction of the Japanese Government at the prompt withdrawal of the Legation of the United States from Seoul.

I have the honor to enclose herewith copies of the above-mentioned notes.

Your action in immediately suppressing the legation at Seoul and initiating the conduct of diplomatic relations vis-a-vis Korea through the medium of Japan is much appreciated here. It is received as a welcome expression of America's willing acquiescence in the order of things determined by the new Japan-Korea Agreement; and the fact that the Government of the united States has been the first to take this step is esteemed as a very graceful and friendly act. The enclosed translation of an editorial from the "Jiji Shimpo" of this date indicates the feeling of the Japanese on this subject.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURES: 1. Mr. Huntington Wilson to Count Katsura, November 25, 1905.

2. Count Katsura to Mr. Huntington Wilson, November 28, 1905.

3. Translation of editorial from the "Jiji Shimpo" of November 30, 1905.

ENCLOSURE NO. 1 WITH MR. WILSON'S NO. 346 OF NOVEMBER 30, 1905.

COPY.

No. 192. American Legation, Tokyo,
November 25, 1905.

Monsieur le Ministre,

I have the honor to communicate to Your Excellency the fact that I have today received from the Secretary of State telegraphic instructions whereby I am informed that, in view of the recent convention between Japan and Korea in virtue of which the foreign relations of Korea are to be conducted through Your Excellency's Government, the American Legation at Seoul has been withdrawn.

The Secretary of State therefore directs that this legation assume the representation of the United States in diplomatic matters affecting rights of treaty, persons, and property in Korea.

Accordingly, I shall hereafter have the honor of addressing Your Excellency in dealing with such questions.

I avail, &c.,

Signed: Huntington Wilson.

To His Excellency
Count Katsura Taro,
His Imperial Japanese Majesty's
Minister For Foreign Affairs.

ENCLOSURE NO. 2 WITH MR. WILSON'S NO. 346 OF NOVEMBER 30, 1905.

COPY.

Translation

No. 75.

Department of Foreign Affairs,

Tokio, November 28th, 1905.

S i r :

I have the honor to acknowledge the receipt of your note No. 192 of the 25th instant, informing me that, in view of the recent convention between Japan and Korea, in virtue of which the foreign relations of Korea are to be conducted through the Imperial Government, the United States Government have withdrawn their Legation at Seoul, that their Legation at Tokio will assume the representation of the United States in diplomatic matters affecting American rights of treaty, persons and property in Korea, and that you will hereafter address me in dealing with such questions.

In reply I beg to state that the Imperial Government are profoundly satisfied with the prompt and just steps which the United States Government have taken in the matter.

Accept, Sir, &c.,

Signed: Count Katsura Taro,

Minister for Foreign Affairs.

Huntington Wilson, Esq're.,

Charge d'Affaires of the

United States of America.

ENCLOSURE NO.3 WITH MR. WILSON'S NO.346 OF NOVEMBER 30, 1905.

"Jiji" editorial note, November 30, 1905.

Withdrawal of Legations at Seoul.

The United States has recently decided to withdraw its legation at Seoul and to transfer to its legation at Tokyo all diplomatic affairs relating to American interests as well as to the persons and property of American citizens in Korea. Furthermore, it is reported that notice to this effect has already been sent to both the Japanese and Korean Governments. The notification of the Japan-Korean Agreement, which has already been sent by the Japanese Government to all countries having treaty relations, is an ordinary communication that does not require any answer indicating approval or disapproval. But whether or not the Powers approve the Agreement is shown by whether they withdraw their legations from Seoul or not. The United States of America, whose interests in Korea are greater than any other country except Japan's, is the first to withdraw her legation, and to have her legation at Tokyo take charge of her interests in Korea. This is a most appropriate act on the part of the United States. Though this is what we have expected, yet it is another instance of America's friendship and good will to our country. We do not doubt that the other Powers will follow this good example.

AMERICAN LEGATION,
TOKIO.

No. 347. December 1, 1905.

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CHIEF CLERK DEC 23 1905 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

To Sheehy & Hogan, Dec. 29 C.
O Aoka Dec. 30 C.

SUBJECT: Barque "Antiope" released by Prize Court.
Her cargo condemned as prize.

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AMERICAN LEGATION,
TOKIO.

No. 347. December 1, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

Referring to Mr. Griscom's despatch No. 325, of October 26, 1905, I have the honor to report that I am informed by the attorney for the owners of the barque "Antiope" and her cargo that the Yokosuka Prize Court yesterday released that vessel from seizure but condemned as prize her cargo of salt.

A written copy of the judgment is not yet accessible, but I shall forward a translation thereof at the earliest practicable opportunity.

I am further informed that an appeal from the judgment against the cargo will be filed.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 348. December 1, 1905.

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Dep

Mr. Huntington Wilson to Mr. Root.

Ackd Jan. 4 C

To Butler, Hoffman & Wynneread, Dec. 29 C

Trig

SUBJECT: Encloses translation of judgment of Prize Court against Steamship "Montara" and cargo.

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AMERICAN LEGATION,
TOKIO.

No. 348. December 1, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

Referring to my despatch No. 341, of November 22, 1905, I have the honor to transmit herewith a translation of the judgment of condemnation of the American steamship "Montara" and her cargo, rendered by the Yokosuka Prize Court November 4, 1905.

I am informed by the attorney for the owners that an appeal from this judgment has been filed.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURE: Translation of Judgment, as above.

(Enclosure with Mr. Wilson's No. 348 of December 1, 1905)

TRANSLATION.

Correct Translation
Emm W. Clement
Acting U. S. Interpreter
of Legation.

No. 22. DECISION.

Defendant: The Pacific Coast Steamship Company, San Francisco, U. S. A.

Representative of the same: Thomas Riley, captain of the steamship "Montara."

Defendant: Lloyds, London, England.

Representative of the same: A. G. Murray Weale, of Cornes & Co., 50, Yamashita Cho, Yokohama.

Agent for both defendants: Hakuai Sato, Attorney at law, 40, Sanchome, Motomachi, Yokohama.

Examinations concerning the capture of the steamship "Montara" of the United States of America have been finished and the decision made in the case is as follows:

Main Clause.

The steamship "Montara" of the United States of America and cargo aboard, namely, 25 bags of leaf tobacco, 11 boxes of tobacco, 17 boxes of sugar, 1 steam launch, 2 small boats, some firewood, about 4,000 salted seal skins, and about 30 skins in all of Siberian sable, red fox, otter, glutton, ermine, and bear, are condemned.

Facts and Reasons.

The steamship in question, the "Montara," registered in San Francisco, U. S. A., is owned by the Pacific Coast Steamship Company and is a merchant vessel carrying the American flag. In accordance with the charter party concluded in San Francisco between Ross Brawn,(?) agents for the Russian Kamschatka Commercial Company, on March 22, 1905, the vessel was rented to the said company for about five months from May 1 of the same year. With the aforesaid purpose in view the vessel in question left San Francisco

cisco on July 9, 1905, having aboard 200 tons of cargo consisting ~~cisting~~ of provisions, agricultural implements, sugar, tobacco, etc., and sailed direct to the region of Russian Kamchatka and called successively at Copper Island, Bering Island, Petropavlovsk, and Woost(?) Kamchatka. The vessel discharged part of her cargo at each of these ports and took aboard furs, etc., owned by or purchased by the Kamchatka Commercial Company. While she was discharging the rest of her cargo on Bering Island the "Montara" was discovered by the Japanese warship "Izumi" at Nikolsk at a little past 2, P. M., August 16, 1905. The vessel was seized, as on inspection it was found that she was in the service of the Russian Government and that she was carrying contraband of war. Though the region of Kommondorsky was not formerly open to the traffic and navigation of any foreign vessel, the Russian Government granted license to the Kamchatka Commercial Company and the Eastern Siberia Company, permitting the vessels chartered by these two companies to go to the said region. Though this is a foreign vessel she was sailing in the region of Kommondorsky by virtue of a special license. The cargo aboard, namely, the remainder of the merchandise and the furs newly bought there, as well as the steam launches belonging to the vessel in question, are the property of the Kamchatka Commercial Company.

These facts are made clear by the written statement of Junior Lieutenant Kizo Ikaku, representative of the commander of the "Iwate," answers to questions put to Thomas Riley, captain of the "Montara," James Bowen, chief engineer of the "Montara," M. Hitte, boatswain, Kizo Ikaku, Nikolai Bruggen, agent of the Russian Kamchatka Commercial Company, Nicholas Alexandrovitch Grebnicky, supply agent for 1905 for Okhotsk, Bering Coast and other ports and Councillor to the Department of the Interior in Russia,

the

the vessel's certificate, charter party, six bills of lading, clearance, journal, log book, copy of statements of Grebnicky in the documents concerning the "Australia" case, and copy of the instruction addressed by the Russian Government to the supply agents.

The Defendant's plea is in substance as follows:

The steamship "Montara" is an American vessel, registered at San Francisco and owned by the Pacific Coast Steamship Company, defendant, since the period previous to the outbreak of hostilities between Japan and Russia. The owners of the steamship in question concluded a contract with the Kamchatka Commercial Company in March, 1905, and rented her for about five months for the purpose of going to Okhotsk, Kamchatka and vicinity. In accordance with common usages, a printed form generally used was used for the charter party. During the period of the contract no false documents were made; nor was any illegal insertion made. These facts will be enough to show that there was no intention to violate neutrality on the part of the owner and the captain of the vessel. The vessel in question left San Francisco on July 9 of the same year, having been loaded with tobacco, sugar, agricultural instruments, iron provisions, etc., daily necessaries of the islanders, and discharged her cargo at Petropavlovsk on Copper Island and Woost(?) Kamchatka. The vessel also took in cargo at both these places and came again to Bering Island on her way home. During her stay at the anchorage of Nikolsk, Bering Island, the cargo for that place was discharged from alongside of the vessel in the afternoon of August 16. She was about to leave the anchorage, when she was captured, because the cargo aboard was regarded as contraband of war, and the vessel was treated as one in the employ of the Russian Government on the ground that she

was

was controlled and protected by that government.

I. As a matter of fact, the vessel had aboard no contraband of war. If she had had any, she could not have been legally captured after having discharged it. This is what theories and precedents confirm.

II. Though by virtue of the Russian Government's license the company that chartered the vessel monopolizes the right of purchasing furs and skins in the region of Kommandorsky, it has not ceased to be a private corporation. There is no ground for regarding the vessel as in the service of the Russian Government, for the simple reason that she was chartered by the Kamchatka Commercial Company.

III. It is disadvantageous for Russia to prohibit the navigation of foreign vessels in the region of Northern Kamchatka, and, therefore, prior to the Russo-Japanese war it is presumable that it was possible for them to go there. For the sake of argument it may be assumed that the license was granted after the outbreak of hostilities, but nevertheless the fact remains that the license is not a special one for the Kamchatka Commercial Company, but it is a general license removing the prohibition. Again it may be assumed that the license was a special one, but it is nothing but a form of legal relationship between the Kamchatka Commercial Company and the Russian Government, and not a license specially granted to the vessel. According to Article VI of the Regulations for Capturing Enemies' Vessels "the vessels navigating with a hostile "country's license" should be those having licenses specially granted to themselves. Even vessels having special licenses are not to be regarded as having violated neutrality in case their cargoes have been already discharged.

IV.

IV. The Regulations for Capturing Enemies' Vessels were promulgated only for the guidance of the military authorities concerned in the war. Unless they agree with the precedents and spirit of international law they cannot be applied to any foreign vessel, especially beyond the limit of Japanese Jurisdiction.

V. The cargo aboard the vessel in question was needed by the starving inhabitants of the island far from the mainland. The transportation of those things was, therefore, an act of humanity.

VI. The condemnation of enemy's vessels, necessary on account of war, should cease with the restoration of peace. It is, therefore, proper that anything captured, for which no decision has yet been made, should be released upon the restoration of peace. This argument will be clearly understood by referring to the events connected with the conclusion of the French-Mexican war of 1856, (1865?), the war of 1859 between Austria and France and Piedmont, the war of 1864 between Denmark and Prussia and Austria, and the Franco-Prussian war. Though captures, where the belligerants only are concerned, are governed by the provisions of treaties or the principle of equal footing, the vessels and goods of neutral countries are not subject to the jurisdiction of the prize courts of belligerant countries after the restoration of peace. A case like the present one should, therefore, be dismissed.

For the purpose of proving the statements in his third point the defendant has produced the section entitled "Report on Japanese Shipping at Vladivostock" in th Official Gazette of March 12, 1902, and one entitled "Report on Shipping in General at Vladivostock" in the Official Gazette of October 14, 1903, No. 8 of Supplement to the Monthly Report of Customs, (Report by Inspector Kurata.) In

In case some particular vessels are permitted in time of war to go to a place closed to all foreign vessels in time of peace, both the theory and precedents of international law regard those vessels as the enemy's, even though they may belong to a neutral country. The cargoes aboard those vessels are, therefore, liable to condemnation. Realizing the insufficiency of Russian vessels, the Russian Government granted the license in question to the Kamchatka Company and the Eastern Siberia Company, permitting the vessels chartered by them only to sail to the region of Kommandorsky. The fact that the vessel in question sailed in the region of Kommandorsky, availing herself of the said license, is clear from the statement of Grebnicky, referred to elsewhere. Furthermore, the fact that the vessel was captured while she was staying at the anchorage of Nikolsk, Kommandorsky Islands, is enough to regard her as a hostile vessel. The cargo aboard the vessel is regarded as hostile goods, as it belonged to the Kamchatka Commercial Company, the lessee of the vessel. For these reasons the vessel and the cargo aboard her are condemned as prizes.

I. Though the defendant demands the release of the vessel on the ground that on the part of the owner and captain there was no intention to violate neutrality, their intention has no bearing on the case, for the decision is to be made by considering the conduct of the vessel, that is, whether or not she engaged in a trading voyage by virtue of the license.

II. Though the defendant maintains that prior to the Russo-Japanese war foreign vessels were allowed to go to the region of Kommandorsky for commercial purposes, and has produced for proof two reports in the Official Gazette and Supplement to the Monthly Report of Customs, they are not enough to prove that all foreign vessels sailed in

the

the region of Kommandorsky freely without the Russian Government's license. The defendant's argument and the documents in question cannot deny the fact stated by Grebnicky, Governor of the island and Supply Agent for the coast of Bering Sea.

III. The defendant argues that the license in question was not a special one granted to the vessel, but a general removal of the prohibition, even though we suppose that permission to sail to the region of Kommandorsky had been given to foreign vessels during the war. The defendant also argues that another supposition that the license was a special one does not affect the argument that the license was granted to the Kamchatka Commercial Company and not to the vessel. But the fact that this license was granted to the Kamchatka Commercial Company and another Russian company only, and that any foreign vessel sailing to the said region was to be punished, is also clearly stated by Grebnicky, and it cannot be maintained that the license in question was a general removal of the prohibition. The argument that the license was granted to the chartering company and not to the vessel herself does not affect the fact that the vessel in question sailed within the prohibited limit by virtue of the license. That this fact constitutes ground for regarding her as a hostile vessel has already been explained.

IV. Though the defendant argues that the vessel could not have been captured, as her voyage in question was an act of humanity, this act was the Kamchatka Commercial Company's regular business of supplying daily necessaries to the islands and was, therefore, nothing but a sort of commercial transaction. There is no evidence whatever to prove that it was an act of humanity and charity.

V. Though the defendant argues that condemnation

should

should cease with the restoration of peace and that the vessel and cargo in question are not subject to the jurisdiction of the prize court, and cites some precedents, those cases related to particular hostile vessels, released in accordance with some special treaties determining the relations between the belligerant countries or some special laws and regulations. They cannot, therefore, be applied to the present case. The right of capture or condemnation may cease with the restoration of peace, but the right of decision on vessels previously captured does not cease. The act of capturing is one thing, while the act of judging the act of capturing is quite another thing. For this reason, unless there is a special treaty or law, the prize court has, after the restoration of peace, the right of carrying on the investigation of neutral vessels or any other foreign vessels and deciding whether they are to be condemned or not. The case of the steamship "Ekisei", during the Japan-China war of 1894-'5, and the precedents as well as the theories of international law confirm this distinction. For the reasons enumerated above the vessel in question and her cargo are to be confiscated, and there is no need for any further explanation with reference to the other points in the defendant's plea. The decision is, therefore, hereby made asstated in the main clause.

Sentence pronounced on November 4, 1905, at the Yokosuka Prize Court in presence of Shigenari Uchida, Prosecuting Attorney of the Yokosuka Prize Court.

Kyo Hasegawa,
Presiding Judge of the Yokosuka Prize Court.

Cho Watanabe,
Judge of the Yokosuka Prize Court.
Kisaburo Suzuki,
Judge of the Yokosuka Prize Court.
Chuji Shimooka,
Judge of the Yokosuka Prize Court.
Tampu Yamakawa,
Judge of the Yokosuka Prize Court.
Masaji Matsusaka,
Clerk of the Yokosuka Prize Court.

AMERICAN LEGATION,
TOKIO.

DIPLOMATIC BUR. DEPT. OF STATE RECEIVED JAN 3 1906

Secretary of State. JAN 3 1906

No.349. December 1, 1905.

INDEX BUREAU REC'D. JAN 2 1906 DEPT. OF STATE

ASSISTANT SECRETARY, JAN 3 1906

CHIEF CLERK JAN 2 1906 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: The Japan-Korea convention of November 17, 1905.

INDEX BUREAU JAN 17 1906 FILED

AMERICAN LEGATION,
TOKIO.

No.349. December 1, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to enclose herewith a copy of the convention between Japan and Korea concluded on November 17 last, whereby the control of the foreign relations of the latter pass into the hands of the Japanese Government.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

ENCLOSURE: Copy of Japan-Korea convention, as above.

Enclosure with Mr. Wilson's No. 349, of December 1, 1905.

CONVENTION BETWEEN JAPAN AND KOREA.

(Copy of official translation)

The Governments of Japan and Korea, desiring to strengthen the principle of solidarity which unites the two Empires, have with that object in view agreed upon and concluded the following stipulations to serve until the moment arrives when it is recognized that Korea has attained national strength:

Article I. The Government of Japan, through the Department of Foreign Affairs at Tokio, will hereafter have control and direction of the external relations and affairs of Korea, and the diplomatic and consular representatives of Japan will have the charge of the subjects and interests of Korea in foreign countries.

Article II. The Government of Japan undertake to see to the execution of the treaties actually existing between Korea and other Powers, and the Government of Korea engage not to conclude hereafter any act or engagement having an international character, except through the medium of the Governemt of Japan.

Article III. The Government of Japan shall be represented at the Court of His Majesty the Emperor of Korea by a Resident General, who shall reside at Seoul, primarily for the purpose of taking charge of and directing matters relating to diplomatic affairs. He shall have the right of private and personal audience of His Majesty the Emperor of Korea. The Japanese Government shall also have the right to station Residents at the several open ports and such other places in Korea as they may deem necessary. Such Residents shall, under the direction of the Resident General, exercise the powers and functions hitherto appertaining to Japanese Consuls in Korea and shall perform such duties as may be necessary in order to carry into full effect the provisions of this Agreement.

Article IV. The stipulations of all treaties and agreements existing between Japan and Korea not inconsistent with the provisions

visions of this Agreement shall continue in force.

Article V. The Government of Japan undertake to maintain the welfare and dignity of the Imperial House of Korea.

In faith whereof, the Undersigned duly authorized by their Governments have signed this agreement and affixed their seals.

Signed: Hayashi Gonsuke,

Envoy Extraordinary and Minister Plenipotentiary.

Signed: Pak Che Soon,

Minister for Foreign Affairs.

November 17th, 1905.

Chief Clerk

Secretary of State.
DEC 23

December 1, 1905.

INDEXBUREAU
AUG
1910
DEPT. OF STATE

My dear Sir,

If you will permit me, I desire to write you a few words on the subject of some of the methods of doing business now enforced under the Regulations in our Embassies and Legations, and certain respects in which I think they could be changed to the

Honorable Elihu Root, great
Secretary of State,
Washington.

great benefit of the service.

As you know, all our out=
=going correspondence is copied by
hand, in chronological order, in
three huge books,- to the Depart-
-ment, to the Foreign Office, and
to miscellaneous. The correspondence
received is similarly divided and
is bound in three other books,—
here, a volume every six months
in each of the divisions. There
are three corresponding divisions
in the two books in which are
registered

registered the communications re-
-ceivd and sent.

The principal objections to our system are the enormouse waste of time in writing up the record books, and the immense difficulty and endless time necessary thoroughly to review any matter which has been the subject of correspondence for several years, or even for months. In some cases dozens of books have to be got out at once and the places found in each after exhaustive search in several registers. It is unnecessary to point out the resultant con-
-fusion

great benefit of the service.

As you know, all our out=
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-fusion

-fusion and inconvenience.

All this would be cured in the future if you would authorize us to keep neat carbon or hand-written copies of out-going correspondence, in place of the record books, and to file all the correspondence sent and received on each subject (that) in a dossier by itself, omitting the binding of the latter chronologically.

Each dossier would be placed in a heavy paper, folded with one edge extending beyond the other for the subject of the contents to be written upon, and all the dossiers

dossiers would be placed slanting back in drawers so that the subjects could be seen at a glance, and arranged alphabetically. Then, in addition to the registers of correspondence sent and received, there could be an index to the dossiers.

Papers of only momentary interest would be merely registered and filed and, after accumulation, bound, - or destroyed.

At this legation we keep a diary in which all conversations

on

on official matters or negotiations are recorded. This book is of the utmost usefulness in keeping the steps in a negotiation perfectly clear, and in securing the results of verbal assurances received. There is no doubt that every mission should keep such an official diary.

I daresay what I suggest is only the ordinary modern business method. I sincerely hope you will allow us to substitute it for our antiquated ways. After nearly nine years of struggling to keep the work of this

legation

legation in order, with the handicap of these cumbersome methods, I must say that in my judgment the service is laboring for efficiency under quite unnecessary disadvantages.

We cannot help all looking to you for the relief that a less disheartening system would give, and I hope you will forgive me for venturing to express some of my opinions on this subject.

Yours very faithfully,

Hunt Wright Bibson.

DEPT. OF STATE
JAN
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1906
2ND ASST SECRETARY

DIPLOMATIC BUREAU.
Let Tokyo have these books.

AMERICAN LEGATION,
TOKIO.

No. 349. B

December 6, 1905.

RECEIVED
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DIPLOMATIC BUR. DEPT. OF STATE.

BUREAU OF ROLLS & LIBRARY
4 JAN 1906
DEPARTMENT OF STATE.

INDEX BUREAU
REC'D.
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DEPT. OF STATE.

CHIEF CLERK
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DEPARTMENT
OF STATE.

Mr. Huntington Wilson to Mr. Root.

Ans Jan. 10 C

file 8/8

SUBJECT: Request for books of reference.

INDEX BUREAU
JAN 17 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 349.

December 6, 1905.

ordered Chapman from me 1/4. 06

To the Honorable Elihu Root,

Secretary of State,

Washington.

ordered ** Stanton Mb. London ? The usual discount 1/4 06

S i r :

I have the honor to request that this Legation be supplied with-

Hubbell's Legal Directory for 1906 and

Findlay's North Pacific Ocean and Japan Directory; published by Laurie, 53, Fleet Street, London.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

RECEIVED JAN 8 1906 DIPLOMATIC BUR. DEPT. OF STATE.

AMERICAN LEGATION,
TOKIO.

Secretary of State.
JAN 3 1906

No.350. December 7, 1905.

ASSISTANT SECRETARY,
JAN 3 1906
Secretary

CHIEF CLERK
JAN
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DEPARTMENT
OF STATE.

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Mr. Huntington Wilson to Mr. Root.

To Treasury (Dr. Budget only)
Acker. F.W.S.
Dibbs.
Jan. 11

SUBJECT: The Budget of Japan for the fiscal year 1906-'07.

INDEX BUREAU
JAN 12 1906
FILED

AMERICAN LEGATION,
TOKIO.

No.350. December 7, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to transmit herewith, in duplicate, an article, taken from the "Japan Daily Mail" of the 5th instant, being an analysis of the Budget of Japan for the fiscal year 1906-'07. This analysis is based upon advance copies, supplied to members of the Japanese Parliament, and may be considered as substantially representing the completed estimates that will be presented at the forthcoming session.

It does not yet appear that the financial measures taken by the present cabinet during the sudden and pressing emergencies of the war and proposed for the future, have met with much serious criticism from the opposition, and it may be assumed that, in this respect at least, the policy pursued is generally approved by the Japanese people. The law imposing extraordinary war taxes will expire by limitation one year after the conclusion of peace, namely, in November, 1906, and this law, or a modification of it, it is apparent, must be continued to meet post bellum expenses for a further period. To gradually and safely clear off these expenses it is believed that this period will probably extend to thirty years, and it is anticipated that much discussion will arise as to proper objects and methods of taxation.

From the enclosed statements it appears that the budget, if compiled under normal conditions, that is, had

there

there been no war, would present the following:

Ordinary revenue	$113,554,640
Extraordinary revenue	9,974,857
Total revenue	$123,529,497
Ordinary expenditures	$ 91,022,172
Extraordinary expenditures	26,500,261
Total expenditures	$117,522,433

But there is now to be added to the above figures the following estimate connected with the war:

Ordinary revenue-War taxes	$80,000,000
Tariff alterations	500,000
Posts and telegraphs	1,229,523
Extraordinary revenue	4,949,479
Total revenue	$86,679,002
Ordinary expenditures-Finance	$78,277,874
War	5,000,000
Other	3,441,271
Extraordinary expenditures-Finance	3,499,300
War	22,500,000
Navy	13,601,680
Other	1,202,315
Total expenditures	$127,522,440

showing an excess of expenditures over revenue of $40,833,438, of which $33,270,582 is intended to be balanced by a domestic loan.

In addition to the above there is an estimated extraordinary outlay for-

Bringing home army	$188,250,000
Restoring navy	10,000,000
Rewards to officers and men	75,000,000
Total	$273,250,000

The

The grand total of expenditures hence amounts to $518,294,873, and the deficiency of revenue is to be made up by domestic loans amounting to $219,270,582.

In reducing these values to American currency the yen is estimated as equivalent to 50 cents, the present rate of exchange.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURE, in duplicate:

Clipping from "Japan Daily Mail" of December 5, 1905, entitled "The Budget."

(Enclosure with Mr. Wilson's No. 350 of December 7, 1905)

The Japan Daily Mail.

YOKOHAMA, TUESDAY, DECEMBER 5, 1905.

THE BUDGET.

THE following figures have been published and may be taken as a correct representation of the Government's financial scheme for the fiscal year 1906-7 :—

I.—Ordinary Revenue.	Yen.
Revenue from Taxes	141,757,441
" Stamps	15,424,111
Receipts from State Industries and Properties	61,655,976
Various Receipts	8,271,752
Total of Ordinary Revenue	227,109,280
II.—Extraordinary Revenue.	
Miscellaneous Receipts	7,949,714
Railway Loan Bonds	12,000,000
Total of Extraordinary Revenue	19,949,714
Grand Total of Ordinary and Extraordinary Revenues	247,058,994
III.—Ordinary Expenditures.	Yen.
Privy Purse	3,000,000
Foreign Department	2,466,200
Home	9,815,861
Finance	62,739,540
War	40,269,352
Naval	24,636,907
Justice	10,262,911
Education	5,000,353
Agriculture and Commerce	3,902,123
Communications	19,951,097
Total of Ordinary Expenditures	182,044,344
IV.—Extraordinary Expenditures.	
Foreign Department	211,320
Home "	4,987,290
Finance "	6,388,778
War "	1,465,575
Naval "	10,603,812
Justice "	628,307
Education "	1,352,561
Agriculture and Commerce	5,862,766
Communications	21,500,383
Total of Extraordinary Expenditures	53,000,522
Total of Ordinary and Extraordinary Expenditures	235,044,866
Excess of Ordinary & Extraordinary Revenue above Ordinary and Extraordinary Expenditures	12,014,128

It must be understood that the above figures are not connected in any way with the war. They represent the Budget that would have been compiled had not the war taken place.

We have next :

BUDGET CONNECTED WITH THE WAR.

V.—Ordinary Revenue.	*Yen.*
Receipts from War Taxes	160,000,000
Receipts from Tariff alterations	1,000,000
Receipts from Posts and Telegraphs in Japan, Manchuria, Korea and Saghalien	2,459,047
Total of Ordinary Revenue	163,459,047
VI.—Extraordinary Revenue.	
Sale of Articles unrequired by the War Department	7,098,958
Sale of Ships	2,500,000
Sale of things taken by the Navy	300,000
Total of Extraordinary Revenue	9,898,958
Total of Ordinary and Extraordinary Revenue	173,358,005
VII.—Ordinary Expenditures.	
Foreign Department	274,194
Finance "	156,555,748
War "	10,000,000
Naval "	4,398,178
Communications Department	2,210,170
Total of Ordinary Expenditures	173,438,290
VIII.—Extraordinary Expenditures.	
Foreign Department	1,700,000
Home "	225,316
Finance "	6,998,600
War "	45,000,000
Naval "	27,203,361
Education "	81,393
Agriculture and Commerce	222,921
Communications	175,000
Total of Extraordinary Expenditures	81,606,591
Total of Ordinary and Extraordinary Expenditures	255,044,881
Excess of Expenditure over Revenue	81,686,876

This excess of expenditure is balanced by the following items :—

IX.—Excess of Revenue in Ordinary Budget	12,014,128
Excess of Revenue over Expenditures in the Ordinary Budget of the War Department	3,145,711
To be obtained by a Domestic Loan	66,541,165
Total	81,701,004

In addition to the above there is an extraordinary outlay of 546½ million *yen*, namely :—

X.—Extraordinary War Expenditures.	
Cost of bringing back the Army	376,500,000
Restoring the Navy	20,000,000
Rewards and gratuities to Officers and Men	150,000,000
Total	546,500,000

Thus we have the following Expenditures in all :—

(A) Ordinary Expenditures	235,044,866
(B) Departmental Outlays connected with the War	255,044,881
(C) Supplementary War Budget	546,500,000
Grand Total of Expenditures.	1,036,589,747

Recapitulating the various items of revenue to be devoted to meeting these outlays, we have the following :—

Ordinary Revenue from taxation, etc.	235,058,994
Revenue from War Taxes, Sales, etc.	173,358,005
Excess of War Department Revenue	3,145,711
Surplus from year 1905-6	30,500,000
Proceeds of Foreign Loan lying in London	150,000,000
To be raised by Domestic Loans	438,541,165
Grand Total of Revenue	1,036,603,875

Several points call for comment in the above. The first is that the War Taxes (160 million *yen*), which ought to cease to be levied at the end of 1906, are to be continued throughout the whole year. The second point is that there are no new taxes or monopolies, the only additional burden under this head being some changes of tariff rates. The third point is that apparently the domestic debt is to be increased by 438½ million *yen*. As to this, however, note has to be taken of the fact that 200 millions of the outstanding 6-per-cent. loan are to be redeemed with one-half of the proceeds of the last foreign loan (50 millions sterling,

actually producing 44 millions). Hence the Government will have merely to substitute 5-per-cent. bonds for those bearing 6 per cent., and the Treasury will retain 220 millions of the foreign loan against the required 438½. Further, 150 millions out of the Extraordinary War Expenditures (Table X) are to be paid out in the form of rewards and gratuities to officers and men. This money need not be actually obtained by means of a loan. The greater part of it can be handed to its recipients in the form of bonds. Thus 370 millions out of the 438½ are accounted for, and there remain only 68½ to be obtained. But it is expected that a sum of about 50 millions will be received from Russia for the maintenance of the prisoners, so that, on the whole, the demand made on the domestic money market will probably not exceed 20 or 30 millions.

Yet another fact to be noted is the destination of this sum of 438½ millions, namely:—

	Yen.
To be devoted to withdrawal of Troops	210,000,000
To be devoted to Rewards and Gratuities	150,000,000
To be devoted to new Undertakings	66,541,000
To be devoted to Railways, Telephones and the War Foundry	12,000,000
Total	438,541,000

Still further analysis of the above figures must be made in order to arrive at a clear idea of the outlays constituting a sequel of the War, apart from the cost of bringing back the army and the sum devoted to rewards and gratuities. These outlays are:—

XI.—Special *Post-bellum* Outlays.	Yen.
Foreign Department	1,730,616
Home	109,399
Finance	110,161,354
Military and Naval	86,765,879
Justice	68,895
Education	473,740
Agriculture and Commerce	5,471,387
Communications	4,869,535
Sanitary Expenditures	2,804,559
Total	212455,364

The particulars of the various outlays are as follow:—

XII.—Foreign Department.	
Building of Police station attached to Legation in Korea	6,422
Residency-General and Residencies in Korea	1,180,000
Expenses of Establishing Residency-General	394,194
Building of Consulates	150,000
Total	1,730,616

XIII.—Finance Department.	
Service of the War Debt	110,000,000
Expenses of Financial Representative abroad	100,000
Expenses of National Debts Consolidation Bureau	50,000
Expenses of Tariff Investigations	11,354
Total	110,161,354

XIV.—Military and Naval Departments.	
Cost of organizing 4 new Divisions	10,000,000
Cost of troops in Manchuria & Korea	20,000,000
Military Restorations	25,000,000
Increase of Naval Outlays	4,398,178
Expenditures at Port Arthur, &c.	2,203,361
Naval Restorations	25,000,000
Expenses of plant for coal-mining	164,340
Total	86,765,879

XV.—Other Outlays.	
Horse-breeding Establishment	720,000
Yokohama Customs reclamation, &c.	1,000,000
Yokohama Break-water	290,000
Kobe Customs, &c.	429,407
Development of Plant for making materials	359,278
Cattle-breeding Stations	99,872
Expenses of Chemical Analysis in the field of manufacture, &c.	60,169
Places for Mechanical drying of Figured Matting	35,000
Steel Factory	1,828,813
Telegraphs and Telephones	2,420,000
Posts and Telegraphs in Manchuria, Korea and Saghalien	2,385,170

It is seen from the above that a sum of 110 million *yen* is to be appropriated annually for the service of the debts contracted on account of the War. This means that the debts will be paid off in 30 years. As for the debt which existed before the war, 36 millions annually are devoted to its service. The latter payment has always been provided out of the ordinary revenue, but the former constitutes a new charge which must be met by a new source of revenue. The War taxes which produce 160 millions exceed the sum required for the service of the War debts by 50 millions.

DIPLOMATIC BUREAU DEPARTMENT OF STATE JAN 9 1906

AMERICAN LEGATION,
TOKIO.

Secretary of State, JAN 3 1906

No.351. December 8, 1905.

ASSISTANT SECRETARY, JAN 3 1906

INDEX BUREAU REC'D JAN 2 1906 DEPT. OF STATE

CHIEF CLERK JAN 2 1906 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR ROOT.

SUBJECT: Japan-South America steamship lines.

To Commerce & Labor
Jan. 9. 1906.
B.T.R.

INDEX BUREAU JAN 10 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 351. December 8, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S I R:

I have the honor to report that two steamship lines are now being established to run between Japan and South America. One is a Japanese enterprise of the Toyo Kisen Kaisha, who own the "America maru", "Nippon maru", and "Hongkong maru" which run between China and Japan and San Francisco via Honolulu. The other is undertaken by the Compagnie Française des Chargeurs Réunis.

The Toyo Kisen Kaisha have ordered two steamers of over 13,000 tons to be built at Nagasaki, ostensibly for their South American service. It is more probable, however, that when these large ships are finished they will be put on the San Francisco line and that the three Toyo Kisen Kaisha vessels now on that route will run to South America. The keel of one of the 13,000 ton ships has already been laid and both are expected to be completed in two years. Until they have steamers of their own the company will employ chartered British vessels.

The proposed route is from Hongkong via Japanese ports to Honolulu and San Francisco, and then to Panama, Guayaquil, Callao, and Iquique. The list of ports of call will depend much upon the business offering. The route on the return voyage will be determined by the amount of freight secured. It may be direct, with a call for coaling at Honolulu, or it may include stopping for passengers or freight

in

in Mexico, or even at San Francisco.

I am informed by the officers of the company that Chinese passengers and goods for South America will be largely counted upon for business, as it is thought that a great number of Chinese laborers will go to Peru. Nitrates, for fertilizers, and Peruvian sugar are the main return cargoes now anticipated.

The Compagnie Française des Chargeurs Réunis dispatched their first steamer last month, advertised to go to Europe via the Straits of Magellan and Buenos Ayres. Among her cargo was a miscellaneous lot of Japanese goods for the Argentine. This company advertise a bi-monthly service to be maintained by five new ships, each of 5,416 tons.

The agent of the French company informs me that their line also is not yet fully organized. The proposed route is from Antwerp via ports and Suez to Singapore, Hongkong, Yokohama, Honolulu, San Francisco, Panama, the ports of the west coast of South America, and via the Straits of Magellan to Rio de Janeiro. The return voyage will be across the Atlantic to Antwerp.

I understand that the French company have a promise of about 2,000 tons of copper per month as cargo from Peru to Europe, and that this is their main dependence in initiating the service.

Hitherto there has been no considerable trade between Japan and South America, but interest in the trade possibilities is now being awakened. The Argentine representative here has suggested to his Government the establishment of a museum of Argentine merchandise in Tokio. It is not unlikely that an important commerce between Japan and the countries of South America may follow this opening of cheaper communication.

The Japanese expect to find a market there for manufactured silk, matting, straw braid, straw hats, porcelain, fans, paper, matches, bamboo articles, lacquer-ware, wood-

en manufactures, et cetera. South American articles of export which would find a market in Japan are leather, hides, cotton, wool, nitrates, sugar, fodder, and wheat.

This departure, and especially the starting of a Japanese line to South America, is somewhat interesting as showing the far reaching commercial enterprise of the Japanese; particularly so as indicative of Japan's determination to have a merchant marine of the first magnitude. With a large sea-faring population, low wages, cheap coal, and liberal Government subsidies to steamship companies, the Japanese will reach out for a good share of the lucrative carrying trade of the world.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

1st 2nd 3rd 4th

Mr. Bacon confidential Japan N 22

TELEGRAM RECEIVED.

CHIEF CLERK
DEC
12
1905
DEPARTMENT
OF STATE.

From N York

Dec 11, 1905.

Received 2-1 P. M.

Secretary of State

Wash D.C.

CHIEF CLERK
DEC
11
1905
DEPARTMENT
OF STATE.

Have arrived at my house

address 115 East 72 St

New York

Lloyd C. Griscom

INDEX BUREAU
DEC 12 1905
FILED

AMERICAN LEGATION,
TOKIO.

No.352. December 11, 1905.

Secretary of State.
JAN 3 1906

RECEIVED
JAN 3 1906
DIPLOMATIC BUREAU DEPT. OF STATE.

INDEX BUREAU
RECD.
JAN 2
1906
DEPT. OF STATE.

ASSISTANT SECRETARY,
JAN 3 1906
Secretary

CHIEF CLERK
JAN
3
1906
DEPARTMENT
OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: The Japanese diplomatic service.

INDEX BUREAU
JAN 17 1906
FILED

AMERICAN LEGATION,
TOKIO.

No.352. December 11, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

The "Official Gazette" of the 2 instant publishes some new regulations regarding the personnel of the diplomatic service made necessary by the changes involved in the creation of embassies by the Japanese Government. I have the honor to transmit herewith for your information a translation of these regulations, promulgated as Imperial Ordinance No.244, dated December 1, 1905.

The ordinance declares the titles, in order of precedence, of diplomatic officers to be those of Ambassador, Envoy Extraordinary and Minister Plenipotentiary, Counsellor of Embassy, Minister Resident, First Secretary of Embassy, First Secretary of Legation, Second Secretary of Embassy, Second Secretary of Legation, Third Secretary of Embassy, Third Secretary of Legation, and Attaché, and gives the official Japanese rank attached to each office. It further specifies that to countries where translation of languages other than English, German, and French, is necessary, First and Second Interpreters, to Embassy or Legation, may be detailed.

A table giving the relative ranks of the officers of the diplomatic and consular services is appended, wherein the respective official Japanese rank

rank and the salary appertaining to each office is specified. The officers below the rank of Ambassador are grouped into seven classes and the salary for any one of a given group varies within prescribed limits according to the grade, determined by length of service, to which the officer belongs. It will be observed that while the salaries are apparently inadequate throughout, the aim is to raise them in effect to a point of sufficiency by means of supplemental allowances, the schedule of which, varying for the different posts, is given in extenso in a second appended table.

On informal inquiry at the Foreign Office I learn the following additional details of interest. For the expenditure of the allowances given on page No.4 of my enclosure, no vouchers are required, since they are considered in the nature of an increase of salary during the time an officer is at his post. A further increase of 30% of the allowance for a post in Europe or America, and of 40% for a post in Asia, is given when the wife of an officer accompanies him. Travelling allowances for moving from post to post on duty are in every case added.

There is attached also to each mission a separate chancery allowance for the expenditure of which vouchers are required, and an extra sum, which might be called a contingent fund, for which an accounting, merely, must be rendered. This last mentioned appropriation is intended to cover repairs to the government property, renewal of furniture, et cetera, and miscellaneous extraordinary expenses.

To each mission there may be detailed an

extra

extra official not in the line of promotion in the service, who might be designated Chancellor. His duties are various, including some clerical work and the general care of the archives and office. He receives a regular salary from the government, and his extra compensation while on such duty is given in the last column of page No.4 of the enclosure.

In addition to the above-mentioned officers it is the habit of the Japanese Government sometimes to employ a foreign advisor, attached as such to the mission, who is not of the regular service but who may receive official Japanese rank. This officer may be appointed at the request of a chief-of-mission. His compensation is a matter of mutual agreement and is provided for aside from the regular official allowances.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURE: Translation of Japanese Imperial Ordinance No.244, December 1, 1905.

ENCLOSURE WITH MR. WILSON'S NO. 352 OF DECEMBER 11, 1905.

Translation from the "Official Gazette"
of December 2, 1905.

Imperial Ordinance No.244, December 1, 1905.

Amendment to Imperial Ordinance No.280, June, 1899.

Art. 1. The following are diplomatic officials: Ambassador, Envoy Extraordinary and Minister Plenipotentiary, Counsellor of Embassy, Minister Resident, First Secretary of Embassy, First Secretary of Legation, Second Secretary of Embassy, Second Secretary of Legation, Third Secretary of Embassy, Third Secretary of Legation, and Attaché.

Art. 2. The official rank of Ambassador shall be "Shinnin"(appointed by the Emperor in person); that of Envoy Extraordinary and Minister Plenipotentiary, Counsellor of Embassy, and Minister Resident, shall be "Chokunin"(appointed by the Emperor); and that of the other diplomatic officials shall be "Sōnin" (appointed by the Cabinet and reported to the Emperor).

Art. VII. To countries where translation of languages other than English, German, and French, is required, the following interpreters may be detailed: First Interpreter of Embassy, First Interpreter of Legation, Second Interpreter of Embassy, Second Interpreter of Legation.

The First and Second Interpreters of Embassy and Legation shall be of the "Sōnin" rank.

ENCLOSURE WITH MR. WILSON'S NO. 352 OF DECEMBER 11, 1905.

Official Japanese rank		Titles	Salaries Yen
"Shinnin"		Ambassador	5,000
"Chokunin"	Group 1 of "Higher Officials"	Envoy Ex. & Minister Pl. Counsellor of Embassy	Grade 1. 4,000 " 2. 3,500
	Group 2 of "Higher Officials"	Envoy Ex. & Minister Pl. Counsellor of Embassy Minister Resident	3,000
"Sōnin"	Group 3 of "Higher Officials"	1st Secretary of Embassy " " " Legation Consul-General	Grade 1. 2,500 " 2. 2,200
	Group 4 of "Higher Officials"	1st Secretary of Embassy " " " Legation Consul-General 2nd Secretary of Embassy " " " Legation Consul Commercial Agent	Grade 1. 2,200 " 2. 2,000 " 3. 1,800
	Group 5 of "Higher Officials"	2nd Secretary of Embassy " " " Legation 3rd Secretary of Embassy " " " Legation Consul Commercial Agent	Grade 1. 1,800 " 2. 1,600 " 3. 1,400

ENCLOSURE WITH MR. WILSON'S NO. 352 OF DECEMBER 11,1905.

Official Japanese rank		Titles	Salaries Yen
Sōnin	Group 6 of "Higher Officials"	3rd Secretary of Embassy	Grade 1. 1,400
		" " " Legation	" 2. 1,200
		Consul	" 3. 1,000
		Commercial Agent	
		Attaché --Diplomatic	
		" Consular	
	Group 7 of "Higher Officials"	Consul	Grade 1. 1,000
		Commercial Agent	" 2. 900
		Vice-Consul	" 3. 800
		Attaché --Diplomatic	" 4. 700
		" Consular	" 5. 600

ENCLOSURE WITH MR. WILSON'S NO. 352 OF DECEMBER 11, 1905.

ALLOWANCES.

Countries.	Ambassador.	E. E. & M. P.	Chargé of Embassy.	Counsellor of Emb'y.	Minister Resident
	Yen	Yen	Not more than Yen	Yen	Yen
Gt. Britain	30,000	-------	12,000	10,000	-------
United States	-------	20,000	-------	-------	-------
France	-------	20,000	-------	-------	-------
Germany	-------	20,000	-------	-------	-------
Italy	-------	17,000	-------	-------	-------
Austria	-------	18,000	-------	-------	-------
Russia	-------	22,000	-------	-------	-------
Holland	-------	14,000	-------	-------	-------
China	-------	12,000	-------	-------	-------
Korea	-------	9,000	-------	-------	-------
Mexico	-------	10,000	-------	-------	-------
Siam	-------	8,000	-------	-------	-------
Brazil	-------	-------	-------	-------	12,000
Belgium	-------	14,000	-------	-------	-------
Spain	-------	17,000	-------	-------	-------
Sweden-Norway	-------	17,000	-------	-------	-------

MBER 11, 1905.

of	Counsellor of Emb'y.	Minister Resident	Chargé of Legation	1st Sec'y of Embassy & Legation	2nd Sec'y of Embassy & Legation	3rd Sec'y of Embassy & Legation	Attaché	Chancellor
re	Yen	Yen	Yen	Yen	Yen	Yen	Not more than Yen	Not more than Yen
00	10,000	.....	.....	7,000	5,800	4,500	3,800	2,800
..	.....	.....	10,000	7,000	5,800	4,500	3,800	2,800
..	.....	.....	10,000	7,000	5,800	4,500	3,800	2,800
..	.....	.....	9,000	6,500	5,300	4,200	3,500	2,700
..	.....	.....	8,500	6,500	5,300	4,200	3,500	2,700
.	.....	.....	9,000	6,500	5,300	4,200	3,500	2,700
..	.....	.....	10,000	7,000	5,800	4,500	3,800	2,800
..	.....	.....	8,000	6,000	5,000	4,000	3,300	2,600
.	.....	.....	6,000	3,200	2,600	2,000	1,500	1,200
.	.....	.....	5,000	3,000	2,400	1,800	1,500	1,200
..	.....	.....	6,500	4,500	4,000	3,200	3,000	2,500
..	.....	.....	5,000	3,200	2,800	2,200	1,800	1,500
-	.....	12,000	7,000	5,000	4,500	3,700	3,300	2,500
..	.....	.....	8,000	6,000	5,000	4,000	3,300	2,600
-	.....	.....	8,000	6,500	5,300	4,200	3,500	2,700
.	.....	.....	8,500	6,500	5,300	4,200	3,500	2,700

BUREAU OF APPOINTMENTS
DEC 12 1905
Department of State.

RECEIVED
DEC 13 1905
DIPLOMATIC BUR. DEPT. OF STATE.

TELEGRAM RECEIVED.

Rec'd by W. Dec 12 ...

Dec 12 1905

Sec State

Washn

From Tokio

Dec 12, 1905.

Received 10 30 a M.

CHIEF CLERK
DEC 13 1905
DEPARTMENT OF STATE.

Did Manchuria pouch recvd

Contain exclusively military attaché

Mail

Wilson

INDEX BUREAU
DEC 13 1905
FILED

Original mr. Bacon
copies. Dec 2nd 3rd

Japan

BUREAU OF APPOINTMENTS
DEC 14 1905
Department of State

TELEGRAM RECEIVED.

RECEIVED
DEC 15 1905
DIPLOMATIC BUR. DEPT OF STATE

From N York,

Dec 14, 1905.

Received 1.55 P.M.

Dept of State,

ASSISTANT SECRETARY
DEC 14 1905

Wash, D.C.

Will arrive Arlington Hotel,
Washington, this Evening-
Please send mail there

Lloyd C. Griscom

INDEX BUREAU
DEC 15 1905
FILED

AMERICAN LEGATION,
TOKIO.

(340-1
52.off.)

RECEIVED
JAN 10 1906
DIPLOMATIC BUR. DEPT. OF STATE.

No. 353.

December 16, 1905.

INDEX BUREAU
REC'D.
JAN 8 1906
DEPT. OF STATE

Ackd and
To Mark M.
Trepionok,
Jan 20

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Case of Mark M. Trepionok at Nagasaki.
Copy of correspondence with Consul at Nagasaki enclosed.

INDEX BUREAU
JAN 29 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 363. December 16, 1905.

ANT SECRETARY,
JAN 9 1906
Dpa

RECEIVED
JAN 1906
CHIEF CLERK
JAN
8
1906
DEPARTMENT
OF STATE.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

In reply to the Department's Instruction No. 146 of November 8, 1905, I have the honor to report that, immediately upon its receipt I wrote to Consul Harris at Nagasaki, requesting him to inform Mr. Mark M. Trepionok or his legal representative that, in view of the restoration of peace between Japan and Russia, he might apply to the Nagasaki Court for a resumption of proceedings in his action against the legal representatives of Mr. W. P. Piankoff.

At the same time I requested the Consul promptly to notify this Legation should such application be rejected or if Mr. Trepionok should otherwise be denied justice, and I asked that any new facts in this case that might be in the Consulate's possession should be reported to the Legation. A copy of my letter to Mr. Harris is enclosed.

I am now in receipt of the Consul's reply, a copy of which I have the honor to transmit herewith. From this it appears that Mr. Trepionok was, when last heard from, on September 23, 1905, in Paris, France; that he was then aware of his right to apply for a resumption of his case; and that his lawyer in Nagasaki has been instructed accordingly and has reqested the transmission of certain original papers from Mr. Trepionok.

I

I have the honor to be ,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURES:--Copies:

1. Mr. Wilson to Mr. Harris, December 8, 1905.
2. Mr. Harris to Mr. Wilson, December 11, 1905.
3. Mr. Trepionok to Mr. Harris, September 23, 1905.
4. Mr. Harris to Mr. Trepionok, October 31, 1905.

(Enclosure No. 1 with Mr. Wilson's No. 353, December 16, 1905)

COPY.

AMERICAN LEGATION, TOKIO,

No. 254. December 8, 1905.

Charles B. Harris, Esquire,
American Consul,
Nagasaki.

Sir:

I have to request that if Mr. Mark M. Trepionok, or his legal representative, is now in Nagasaki, you will inform him that, in view of the restoration of peace between Japan and Russia, he can apply to the Nagasaki Court for a resumption of proceedings in his action against the legal representatives of Mr. W. P. Piankoff, which proceedings, you will remember, were suspended on account of the outbreak of war.

If such application be rejected, or if Mr. Trepionok be otherwise denied justice in this case, or if you are in possession of any new facts in connection with it, I trust that you will promptly notify this Legation.

I am, Sir,

Your obedient servant,

Huntington Wilson,

Chargé d'Affaires.

(Enclosure No. 2 with Mr. Wilson's No. 358, December 16, 1905)

COPY.

No. 5016. AMERICAN CONSULATE,

Nagasaki, Japan, December 11th, 1905.

Huntington Wilson, Esquire,

American Chargé d'affaires ad interim,

Tokio.

Sir:

I have to acknowledge the receipt of instruction No. 254, dated the 8th instant, directing me to inform Mr. Mark M. Trepionok or his legal representatives, that he can now apply to the courts for a resumption of proceedings in his action against the heirs of Mr. W. P. Piankoff, which were suspended by reason of the war between Japan and Russia.

In reply, for your information, I have to enclose herewith, as one enclosure, copy of a communication received from Mr. Trepionok, dated Paris, France, Sept. 23rd 1905 and copy of my letter No. 4967 of the 31st October 1905 in answer. In the correspondence, it will be noticed that a resumption of the proceedings in question is under consideration. Since the date last mentioned I have heard nothing further regarding the matter.

I am, Sir,

Your obedient servant,

Charles E. Harris,

Consul.

Enclosure:-One, as stated.

(Enclosure No. 3 with Mr. Wilson's No.353, December 16, 1905)

COPY.

Paris, France, Sept. 23rd, 1905.

Charles B. Harris,
American Consul,
Nagasaki, Japan.

Dear Sir:

Referring to my law-suit pending in Nagasaki Appeal Court being suspended until the war is over and taxing into consideration that the war is already over, I wish to call your kind attention to it once more.

Permit me, Sir, to say that I am unlucky American struggling for justice and nothing else. Allow me, Sir, to appeal to your most christian feelings, and in the name of humanity in the name of your American patriotism, in the name of Christianity, and ask to render me due and lawful assistance in getting this suit decided in the present century. Look up on me, Sir, as up on one of your American citizens whose interests should be protected.

Herewith I inclose a letter to my attorney, Mr. Yonemura, which I wish to ask you to hand over reminding him about his immediate duties.

I am, Dear Sir, Your obedient servant,

Mark M. Trepionok.

My present address: Poste Restante, Paris, France.

(Enclosure No. 4 with Mr. Wilson's No.353 December 16, 1905)

COPY.

No. 4947. AMERICAN CONSULATE,

Nagasaki, Japan, October 31st, 1905.

Mr. Mark M. Trepionok,

Poste restante,

Paris, France.

Sir:

In reply to your letter of the 23rd ultimo received this day, I have, as requested, handed to Mr. Yonemura, the letter which you enclosed in your communication under acknowledgment, and to state that Mr. Yonemura has requested me to ask you to send him, at your earliest convenience, the original papers to the suit which you now have pending in the Nagasaki Appeal Court.

Very respectfully,

Charles B. Harris,

Consul.

AMERICAN LEGATION,
TOKIO.

No. 354. December 18, 1905.

RECEIVED JAN 9 1906 DIPLOMATIC BUR. DEPT. OF STATE.

RECEIVED JAN 9 1906 DIPLOMATIC BUR. DEPT. OF STATE.

INDEX BUREAU REC'D. JAN 8 1906 DEPT. OF STATE

CHIEF CLERK JAN 8 1906 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

Ans Jan 11

Subject:--Missing mail bag,- confirming telegrams.

Ans. that the matter from the Military attaché was mailed

INDEX BUREAU JAN 12 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 354. December 18, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to confirm the following three telegrams in respect to an official mail bag which appeared to have been lost, inasmuch as a detached tag from this legation, postmarked Tokio, had reached the Department:

1. Telegram received December 12.
Amlegation Tokio.

Tag postmarked Tokio, November nineteenth, received per "Manchuria", seal broken, without pouch. One pouch "Manchuria" nineteenth received; one "Empress India" twenty-fourth received; tags intact.

Bacon.

2. Telegram sent December 12.
Secstate, Washington.

Did "Manchuria" pouch received contain exclusively military attaché's mail?

Wilson.

3. Telegram received December 13.
Amlegation, Tokio.

Received dispatches three thirty-eight to forty-three. One pouch contained large box naval intelligence; other pouch miscellaneous.

Bacon, Acting.

Upon

Upon receipt of the Department's first telegram I wrote to inform the Japanese Minister of Communications of the loss of a mail bag sent from this legation by the "Manchu-"ria" and to request that he have the proper steps taken to trace the same.

Investigation in this office and inquiry of the military attaché indicated that, in addition to the pouch containing diplomatic dispatches, a separate pouch had been forwarded by the "Manchuria" containing only some packages of printed matter from the military attaché. To ascertain which bag was missing, I sent the above telegraphic inquiry.

The Department's reply, as I understand it, shows that all the Legation's dispatches arrived safely and that what may be missing is printed matter which Captain Pershing can readily duplicate if a pouch proves to have been actually lost.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

Japan

DEPARTMENT OF STATE,
WASHINGTON.

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RECEIVED DEC 22 1905 DIPLOMATIC BUR. DEPT. OF STATE

No.#

December 20, 1905.

CHIEF CLERK DEC 21 1905 DEPARTMENT OF STATE.

RECEIVED DEC 23 1905 BUR. ACCOUNTS DEPT. OF STATE

Mr. Griscom to Mr. Root.

Subject:- Reporting arrival in Washington.

INDEX BUREAU DEC 27 1905 FILED

DEPARTMENT OF STATE,
WASHINGTON.

No. # December 20, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to report that, availing myself of leave of absence granted by the Department, I sailed from Yokohama on the 19th of November and arrived at Washington on the 14th instant.

I have the honor to be,
Sir,
Your obedient servant,

Lloyd C. Griscom.

Minister to Japan.

My address while in the United States ~~will be in care of Clement A. Griscom, Esq., Dolobran, Philadelphia.~~ until further notice will be "Dolobran", Haverford Pennsylvania.

Japan

DEPARTMENT OF STATE,
WASHINGTON.

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20
1905
DEPT. OF STATE

RECEIVED
DEC
22
1905
DIPLOMATIC BUR. DEPT. OF STATE.

Japan
Dec. 26

December 20, 1905.

CHIEF CLERK
DEC
21
1905
DEPARTMENT
OF STATE.

RECEIVED
DEC
27
1905
BUREAU OF ACCOUNTS
DEPT OF STATE.

Mr. Miller to the Secretary of State.

INDEX BUREAU
DEC 29 1905
FILED

Subject:- Reporting arrival in the United States on leave of absence.

DEPARTMENT OF STATE,
WASHINGTON.

December 20, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

Sir:

I have the honor to report that, availing myself of leave of absence granted by the Department, I sailed from Yokohama on the 19th of November and arrived at Washington on the 14th instant.

I have the honor to be,
Sir,
Your obedient servant,

R. A. Miller

Interpreter to the Legation
Tokio, Japan.

My address while in the United States will be Ithaca, N.Y.

AMERICAN LEGATION,
TOKIO.

No. 355. December 20, 1905.

INDEX BUREAU
RECD.
JAN
8
1906
DEPT. OF STATE

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: The President's thanks conveyed for a complimentary address from several villages of Fukushima Prefecture.

INDEX BUREAU
JAN 9 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 355. December 20, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

In acknowledging the receipt of your unnumbered instruction of the 2 ultimo directing the conveyance of the President's thanks for the sentiments expressed in the address from the representatives of several villages of Fukushima Prefecture enclosed with this legation's No. 319 of the 10 ultimo, I have the honor to enclose herewith a copy of my letter of the 8 instant addressed to these representatives.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

ENCLOSURE: Mr. Huntington Wilson to Messrs. Shinichi Osumi et al., December 8, 1905.

ENCLOSURE WITH MR. WILSON'S NO.355 OF DECEMBER 20, 1905.

COPY.

AMERICAN LEGATION, TOKYO,
December 8, 1905.

S i r s :

I am instructed by the Secretary of State to convey to you the thanks of the President for the expressions contained in your address of thanks for his efforts in the cause of peace, dated the 22nd of September last.

The President recognizes with pleasure the sentiments of appreciation therein set forth.

Pray accept, &c.,

Signed: Huntington Wilson,

To Messieurs

Shinichi Osumi, Hidekatsu Shinkai, Masanobu Suzuki, Shuyei Imamura, Seiju Hangai, Tomiji Tachibana, Risuke Tada, Juroji Suzuki, Ichii Hangai,

&c., &c., &c.

Odaka-machi, Fukuura-mura, Kanafusa-mura,

Soma-gori, Fukushima Prefecture.

CC

TELEGRAM RECEIVED IN CIPHER.

BUREAU OF APPOINTMENTS
DEC 21 1905
Department of State.

Secretary of State.
DEC 21 1905
RECEIVED
DEC 21 1905
DEPT. OF STATE

CHIEF CLERK
DEC 21 1905
DEPARTMENT OF STATE

From Tokio

December 21st, 1905.

Rec'd. 1:40 P. M.

To Japanese Legation Dec. 22 Clerk Dec 21

Secretary of State,

Washington.

December 21, 7 P. M. Minister for Foreign Affairs informs me to-day that the negotiations with China terminated in an agreement signed the 18th instant. He was glad to say that the results were satisfactory to Japan. Publication of the terms may be withheld until Baron Komura's return.

WILSON.

IMPK BUREAU
DEC 29 1905
FILED

Ciphered by ~~the Chief Clerk's Office~~
S. H. Q.

Ciphered by ~~the Chief Clerk's Office~~
S. H. Q.

File

BUREAU OF APPOINTMENTS
DEC 21 1905
Department of State.

Give to Press

RECEIVED
DEC 23 1905
DEPT. OF STATE.

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
DEC 21 1905

From Tokio

December 21, 1905.

Rec'd. 10:32 A. M.

File CP

Dec 23

Genii to Press
Chief Clerk
y

Secretary of State,

Washington.

Marquis Ito has been appointed Resident General at Seoul.

WILSON.

INDEX BUREAU
DEC 26 1905
FILED

...hered by the Chief Clerk's Office.
S. H. Q.

OF APPOINTMENTS
C 22 1905
rtment of State.

TELEGRAM RECEIVED IN CIPHER

RECEIVED
DEC
DEPARTMENT OF STATE

Secretary of State.
DEC 23 1905

From

Tokio,

December 22, 1905.

Received 3.26 P.M.

CHIEF CLERK
DEC
26
1905
DEPARTMENT
OF STATE.

Secretary of State,

Washington.

It is expected that the Katsura Cabinet will go out of office early in January.

WILSON.

INDEX BUREAU
DEC 26 1905
FILED

Ciphered by ~~the Chief Clerk's Office~~,
S.H.Q.

AMERICAN LEGATION,
TOKIO.

RECEIVED
JAN 23 1906
DIPLOMATIC BUR. DEPT. OF STATE

No.356. December 24, 1905.

CHIEF CLERK
JAN 22 1906
DEPARTMENT OF STATE.

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JAN 22 1906
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ASSISTANT SECRETARY,
JAN 22 1906

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Completion of Japan-China negotiations:--Confirms telegram of December 21.

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JAN 24 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 356. December 24, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm as follows the reading of my enciphered telegram of the 21 instant:

"Secstate, Washington,

"December 21, 7 P.M. Minister "for Foreign Affairs informed me today that "the negotiations with China terminated in "an agreement signed the eighteenth instant. "He was glad to say that the results were "satisfactory to Japan. Publication of the "terms may be withheld until Baron Komura's "return.

"Wilson."

At an interview which I had with Count Katsura on the 21 instant I expressed the wish to hear anything he might be prepared to say in regard to the result of the negotiations at Peking. While his Excellency expressed his willingness to communicate with us in regard to the negotiations in question at the earliest moment, all he said on this occasion was that the results had been, he was glad to say, satisfactory to Japan: that the Chinese had recognized

recognized the results of the Treaty of Peace. Count Katsura seemed decidedly pleased with the outcome.

The private secretary who interpreted for Count Katsura now informs me that he was mistaken in saying the agreement had been signed the eighteenth, the fact being that it was completed the eighteenth and actually signed on December 22.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 357. December 22, 1905.

RECEIVED JAN 29 1906 DIPLOMATIC BUR. DEPT. OF STATE.

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ASSISTANT SECRETARY, JAN 22 1906

CHIEF CLERK JAN 22 1906 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:- Probable resignation of Katsura Cabinet; Japanese politics since the crisis of September.

INDEX BUREAU FEB 2 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 357. December 22, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I beg to confirm the following telegram which I have had the honor to dispatch to you today:

Secstate, Washington.

It is expected that the Katsura Cabinet will go out of office early in January.

Wilson.

The impression has now become general that Count Katsura has decided to resign, and that Marquis Saionji, the leader of the Constitutionalist Party, is engaged in forming a cabinet to take over the Government early in January. It is understood that Marquis Saionji is endeavoring to secure the support or at least the neutrality of the Elder Statesmen, and that he will select several of his ministers from amongst the Constitutionalists and meet the Diet with a cabinet having a considerable party complexion.

The dissatisfaction with the Katsura Ministry which was manifested the first week in September and which culminated in the riots and the violent attacks of newspapers and politicians described in the Legation's dispatch No. 306 of September 15, has continued up to the present time.

Under the excitement of the crisis of September all the newspapers excepting the one pro-Government organ, the

"Kokumin"

"Kokumin" and most of the political leaders, as well as a large proportion of the people felt very bitter against the Government as responsible for the unpopular treaty of peace. It is interesting to note that three members of the House of Representatives have been committed for trial as instigators of the riots.

The malcontents went so far that they seem irrevocably pledged to insist upon this cabinet's resignation, and this they have consistently done, uninfluenced by the changing circumstances of the time which has elapsed since the terms of peace became known.

On the other hand, the antagonism of the people at large seems long since to have subsided. The restraint of violent writing and the complete tranquillity of Tokio which were secured by twelve weeks of strict press control and very inconspicuous but effective martial law modified the popular mood. The Imperial Edict of October 17, sanctioning the peace terms and adjuring the nation to be orderly and industrious, likewise wielded a powerful calming influence. Then the announcement of the new Anglo-Japanese Alliance was received with a gratification which tended to soothe the discontent. It may be said that the series of events following the crisis was extremely opportune to distract the public mind from the wrath that had been aroused, and gradually to obscure the acute situation which existed at the beginning of September.

Among these events may be mentioned the visit of the British fleet, the triumphal return of Admiral Togo with its attendant fêtes and splendid naval review, and the welcoming back of Field-Marshall the Marquis Oyama and his famous generals. The recent visit of the Emperor to the Ancestral Shrines at Ise, in religeous celebration of victory, also appealed to the sense of national pride.

The

The prompt and complete success of the Marquis Ito's mission to Seoul was a diplomatic achievement that delighted all Japan. In securing to this country a position of authority in Korea the convention of the 17 November has finally realized for the Japanese people what is traditionally dearest to them since time immemorial.

If the results of the Peking negotiations give satisfaction to the public, events will have gone far towards rehabilitating this ministry in the esteem of the people. But the press and many publicists have remained implacable and true to their unconditional demand for resignation. Even in the midst of popular celebrations and in the face of acknowledged Government successes, the public has been called upon to remember the "failure" at Portsmouth, and the demand for resignation has been reiterated with relentless consistency.

The following incident should be added as a minor factor in the present position of Japanese politics. At the beginning of this month a serious disagreement between the Ministry of Education and the Tokio Imperial University brought some little embarrassment and further attack upon the Government and resulted in the resignation of the Minister of Education. Certain professors of the University had become quite notorious as the "Seven Professors" through a great number of articles which they wrote during the war in which were expressed fantastic views as to what the peace terms might be. One distinguished professor was consequently relieved of his post by the Department of Education. Thereupon the President of the University resigned and there followed an issue as to the independence of the University. At one time many professors both here and in Kioto took offense and resigned, and both the universities of Japan were much agitated. The trouble appears to have subsided since the retirement of the minister concerned.

Baron

Baron Komura is expected to return to Tokio about January 4. Then the results of the Peking negotiations will be announced and the present Government will be able to retire after having completed the war and the three resultant negotiations at Portsmouth, at Peking, and at Seoul. To its successor will be left the post bellum financing and the delicate business of dispensing rewards to the army and navy. As for the finances for next year, a new cabinet will hardly have time to do otherwise than present to the coming Diet the budget as already prepared.

The Katsura Cabinet is notable in the history of modern Japan in that it has remained in power for four and a half years, and the period of its government has embraced the first and the last phases of the gigantic struggle from which Japan is now emerging.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

RECEIVED JAN 22 1906 WAR DEPT. DEPT. OF STATE

AMERICAN LEGATION,
TOKIO.

No. 358. December 26, 1905.

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To Supt. Coast & Geodetic Survey, Jan. 24

Mr. Huntington Wilson to Mr. Root.

Japan
Lieutenant

SUBJECT: Tidal data forwarded to Superintendent of Coast and Geodetic Survey.

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AMERICAN LEGATION,
TOKIO.

No. 358. December 26, 1905.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to report that in accordance with the Department's circular of July 20, 1904, I have this day forwarded to the Superintendent of the United States Coast and Geodetic Survey, Washington, further data relating to the tides of the coasts of Japan.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

Japan

LAND TITLE BUILDING
BROAD & SANSOM STREETS
PHILADELPHIA

Secretary of State.
DEC 30 1905

ASSISTANT SECRETARY,
DEC 29 1905

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RECEIVED
JAN
1906

Haverford, Pa.

December 27, 1905.

CHIEF CLERK
DEC
29
1905
DEPARTMENT
OF STATE.

To the Honorable Elihu Root,

Secretary of State,

Washington.

Jan 3

Sir:

I have the honor to request that I may be granted leave of absence for sixty days beginning January 1st, 1906.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

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Japan

LAND TITLE BUILDING
BROAD & SANSOM STREETS
PHILADELPHIA

ASSISTANT SECRETARY,
DEC 29 1905

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Haverford, Pa. December 27, 1905.

Attended to Dec. 28. 1905

Called Mr. Wilson Dec. 28. 1905

CHIEF CLERK
DEC
29
1905
DEPARTMENT
OF STATE.

To the Honorable Elihu Root,

Secretary of State,

Washington,

S i r :

I have the honor to request that in my absence Mr. Huntington Wilson, Charge d'Affaires at Tokio, Japan, may be authorized to draw upon the Secretary of State for the Contingent expenses of the Legation for the quarter ending March 31, 1906.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

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Original Mr. Bowers
Copies Sec. 2nd & 3rd.

RECEIVED
DEC 28 1905
32 Gatt

BUREAU OF APPOINTMENTS
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TELEGRAM RECEIVED.

DEPARTMENT OF STATE

From Tokio

DEC 28 11 19 AM 190

Dec 28, 1905

ASSISTANT SECRETARY,
CHIEF CLERK'S OFFICE
DEC 29 1905

Received 8 54 A M.

Sec State,

Washn.

Their Excellencies Tuan Fang formerly Governor Hunan and Tai Hongtsu Vice Minister Finance Chinese Commissioners sailed San Francisco Steamship Siberia with suite of ~~thirty~~ twenty nine and twelve servants. Spend three weeks America

Wilson

Collect for Telegrams
Postal Cable & Atlantic
Cable Co.

DEC 30 1905
Department of State.

TELEGRAM RECEIVED.

PO KE JH 8

From

226pm

TOKIO (This is paid service refers to 4/28 SecState,Washn.)

D.

W-4. Twentyeighth SecState replace twenty by thirty.

TELEGRAM RECEIVED IN CIPHER.

BUREAU OF APPOINTMENTS
DEC 28 1905
Department of State.

DEC 28 1905

From Tokio

December 28th, 1905.

Rec'd. 9:04 A. M.

ASSISTANT SECRETARY,
DEC 28 1905

Secretary of State,

Washington.

May I draw the next quarter's contingent fund?

WILSON.

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JAN 3 1906
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Ciphered by the Chief Clerk's Office,

C. R. D.

TELEGRAM RECEIVED IN CIPHER.

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Department of State.

DEC 28 1905

From Tokio

December 28th, 1905.

Rec'd. 9:04 A. M.

ASSISTANT SECRETARY,
DEC 28 1905

Secretary of State,

Washington.

May I draw the next quarter's contingent fund?

WILSON.

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ciphered by the Chief Clerk's Office,

C. R. D.

AMERICAN LEGATION,
TOKIO.

No.359. December 28, 1905.

ASSISTANT SECRETARY,
JAN 22 1906

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JAN 22 1906
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CHIEF CLERK
JAN
22
1906
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OF STATE.

Treasury
Com. of Labor inform
Coming of Chinese
Commissioners
Feb. 15
Feb. 12, 1906
from Japan
S. E.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Visit of Chinese Commissioners to the United States.--
Confirms telegram of December 28.

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RECEIVED FEB 15 1906 MISC. BUR. DEPT. OF STATE

AMERICAN LEGATION,
TOKIO.

No.359. December 28, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

In order that the Department may have ample time to make the necessary arrangements at San Francisco for the reception of those members of the Chinese commission to investigate conditions abroad who sailed from Yokohama yesterday, I have today had the honor to telegraph you as follows:

"Their Excellencies Tuanfang formerly
"Governor Hunan, and Taihongtsu Vice-Minister
"of Finance, Chinese Commissioners, sailed San
"Francisco steamship "Siberia" with suite of
"thirty-nine and twelve servants. Spend three
"weeks America.

"Wilson."

The Chinese Minister here informs me that these high commissioners will first pass about three weeks in the United States and will then go to Europe where they purpose to remain, approximately, one week in Austria, three weeks in Germany, and a fortnight in France. These officials made no sojourn in Japan.

His Excellency further states that three other commissioners, His Highness Prince Tsai Tsu, and their Excellencies Shang Chi Hung, formerly treasurer of Shantung Province, and Li Sheng To, sometime

Minister

Minister to Japan and now appointed to Belgium, will arrive here in about two weeks and will spend a month in Japan. They will then proceed to England, Belgium, and Russia. My informant said that none of the commissioners, except of course the Minister to Belgium, was expected to be absent from China more than six months, which would seem quite inadequate for any but very superficial investigations.

The suite of the high commissioners now on the way to the United States consists of thirty secretaries and attachés and nine students, and many of them are said to be of high rank.

I have the honor to be,

Sir,

Your obedient servant,

Hunt Wilson

Mr. Dearing

BUREAU OF APPOINTMENTS
DEC 29 1905
Department of State.

RECEIVED TIME
DEC

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
DEC 29 1905

From Tokio

December 29th, 1905.

Rec'd. 9:20 A. M.

CHIEF CLERK
DEC
29
1905
DEPARTMENT
OF STATE.

Secretary of State,

Washington.

Accept with pleasure and with many thanks to the President and yourself.

WILSON.

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FILED

~~phered by the Chief Clerk's Office,~~

S. H. Q.

LEGATION OF THE UNITED STATES,
TOKIO, JAPAN.

RECEIVED JAN 23 1906 DIPLOMATIC BUR. DEPT. OF STATE.

No. 360. December 30, 1905.

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ASSISTANT SECRETARY, JAN 22 1906

CHIEF CLERK JAN 22 1906 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:- Opening of the Diet: the political parties.

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AMERICAN LEGATION,
TOKIO.

No. 360. December 30, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

On the 28th instant the Japanese Diet was opened by the Emperor in person, and His Majesty addressed the two houses as follows:

(Translation)

"We hereby perform the ceremony of opening the Imperial Diet, and address the members of the House of Peers and the House of Representatives.

By the assistance and advice of Our officials, civil and military, and of the members of the Diet, and also by the loyalty and devotion of Our subjects, We have put an end to the hostilities with honor and have restored friendly relations with Russia.

We are profoundly gratified that the Treaty of Alliance with Great Britain has been renewed, and that our intercourse with all the treaty powers is growing more intimate.

Various agreements between this Empire and Korea have had the effect of making closer the relations between the two countries, and it is necessary to cultivate friendship still more in future with that nation, thereby accomplishing the work of guidance and enlightenment.

We have ordered the Ministers of State to submit to the Diet the budget for the thirty-ninth year of Meiji, and various drafts of laws. Discharge your legislative duties in the spirit of cooperation and harmony, and answer Our expectations

expectations by paying due regard to the progress of the nation and looking forward to ultimate success in future."

I have the honor to enclose a translation of the reply made by the House of Representatives, and also of a congratulatory address upon the successes of the national policy of Japan in peace and in war which the same body presented to His Imperial Majesty. Especial gratification is expressed therein at the achievements of the army and navy, the ending of the war, the conclusion of the present Anglo-Japanese Alliance, and the consolidation of Japan's new position in Korea by the Agreement recently signed at Seoul. A similar reply to the Throne was made by the House of Peers.

After a preliminary meeting following the opening ceremony the House adjourned until January 20, when the real business of the session will be taken up.

The strength of the political parties is estimated as follows:- The Seiyukai or Constitutionalists (the party founded by the Marquis Ito), 141 votes; the Shimpoto or Progressists (Count Okuma's party) 97 votes; and the Daido Club 89 votes. The remaining fifty-two votes of the total of three hundred and seventy-nine members are divided among small unaffiliated groups.

The name Daido Club signifies those who agree upon essentials although they may disagree about non-essentials. Last week a combination of several small groups of members inaugurated this party, and, if it have sufficient solidarity, it will weild considerable influence in determining the balance of power in the Lower House. It is said that the Daido Club will join the Constitutionalists in supporting the new cabinet about to come into power, which is mentioned in the Legation's dispatch No. 357 of the 22 instant.

Still another political organization has today come into existence under the name of the Seiko Club. The membership

bership includes about forty of the remaining independent members among whom are several men of reputation.

The published statements of Count Okuma indicate that his party will remain, on principle, in opposition. At the same time Count Okuma welcomes the coming into office of Marquis Saionji, because his cabinet is to be a party one and the complete establishment of responsible party government in Japan is the strongest wish of the Progressists.

Until now so-called clan government by a cabinet under the tutelage of one or another of the Elder Statesmen has been the rule, and the nobility have been opposed to political parties. Moreover, a lack of interest in domestic politics on the part of responsible people, together with a want of well defined issues, has retarded the development of good political material among the nation and has delayed the coming of party government as a logical result of the representative system.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

losure:

Clippings from the "Japan Mail" of December 29.

Enclosure with W. Wilson's No. 360, December 30, 1905.

The Japan Daily Mail.

YOKOHAMA. FRIDAY. DECEMBER 29, 1905.

Reply to the Throne by the House of Representatives

"Your Majesty's servant, Matsuda Masahisa, President of the House of Representatives, reverentially addressing Your Majesty on behalf of the House, is profoundly moved by Your Majesty's condescension in visiting the House, performing the ceremony of opening for the twenty-second time, and vouchsafing to us a gracious message. The responsibilities of the Empire are heavier than ever now that the war has been concluded, and Your Majesty's servants, bringing to the discharge of their legislative duties the utmost circumspection and sincerity, will seek to respond to Your Majesty's wishes and to justify the trust reposed in them by the people."

Their congratulatory address.

Your Majesty's servant, Matsuda Masahisa, President of the House of Representatives, has the honour to state with the utmost reverence and humility:—Since Your Majesty, endowed with profound sagacity, ascended the Throne, Your Majesty has adopted and pursued a great policy, encouraging literature, honouring the pursuit of arms, organizing the administration, improving the government, cementing friendship with foreign countries, forming an Alliance with England and taking Korea under the Empire's protection, thus renewing the glory of the Empire and ruling it with wise discrimination for which no parallel is to be found in ancient or modern times. Unfortunately hostilities had to be opened last year with Russia, and in accordance with the Imperial Declaration of War Your Majesty's forces taking the field, the stout soldiers and sailors of the Empire showed its might far and near, and never failed, whether on sea or shore to achieve signal victories. Then, no sooner did a friendly Power intervene than Your Majesty responded with the utmost magnanimity, and concluded peace, so that the Empire's armies are now returning amid triumphant acclamations. We, Your Majesty's servants, owe it to Your Majesty's virtues that these unprecedented results have been achieved and that we living in an age when our country's fame is noised abroad, are privileged to witness these illustrious deeds and to assist in a great national programme. No fortune can be happier."

Duplicate.

Enclosure with Mr Wilson's No 360. December 30, 1905.

The Japan Daily Mail.

YOKOHAMA. FRIDAY. DECEMBER 29, 1905.

Reply to the Throne by the House of Representatives

"Your Majesty's servant, Matsuda Masahisa, President of the House of Representatives, reverentially addressing Your Majesty on behalf of the House, is profoundly moved by Your Majesty's condescension in visiting the House, performing the ceremony of opening for the twenty-second time, and vouchsafing to us a gracious message. The responsibilities of the Empire are heavier than ever now that the war has been concluded, and Your Majesty's servants, bringing to the discharge of their legislative duties the utmost circumspection and sincerity, will seek to respond to Your Majesty's wishes and to justify the trust reposed in them by the people."

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AMERICAN LEGATION,
TOKIO.

DIPLOMATIC BUR. DEPT. OF STATE. JAN 23 1906

No. 361. December 31, 1905.

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CHIEF CLERK JAN 22 1906 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Missing official mail-bag forwarded by S.S."Manchuria" November 19, 1905.

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AMERICAN LEGATION,
TOKIO.

No. 361. December 31, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to my dispatch No.354 of the 18 instant relating to an official mail-bag forwarded by the S.S. "Manchuria" on November 19 last, which appears to have been lost, I have the honor to transmit herewith enclosed for the Department's information, a copy of a translation of the reply received from the Japanese Department of Communications to my immediate request that steps be taken to trace the missing pouch.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

ENCLOSURE: Mr. Kenjiro Komatsu to Mr. Huntington Wilson, December 21, 1905.---with sub-enclosure----

ENCLOSURE WITH MR. WILSON'S NO. 361 OF DECEMBER 31, 1905.

COPY

Translation

Department of Communications,
Tokyo, December 21, 1905.

S I R :

In reply to your letter to the Minister of Communications dated December 12, concerning a missing pouch addressed to the Department of State, Washington, D.C., I beg to state that it was duly forwarded to America on November 19 per S.S. "Manchuria". We have received from the Post Office at San Francisco a telegram (copy B) in reply to ours (copy A). We therefore presume that the accident referred to in your letter happened after the arrival of the pouch in your country. As we have requested the Postmaster-General of your country to investigate the matter we shall let you know as soon as we hear from him.

I write this by order of the Minister of Communications, and take this occasion, &c.,

Signed: Kenjiro Komatsu.
Chief of the Bureau of Communication.

To His Excellency Huntington Wilson,
Charge d'Affaires of the United State of America.

SUB-ENCLOSURE WITH MR. WILSON'S NO. 361 OF DECEMBER 31, 1905.

COPY

COPY. A.

Telegram, Tokyo, December 16, 1905.

Postmaster, San Francisco.

Please cable whether you received without remark from steamer "Manchuria" left Yokohama nineteenth November, two pouches for Department of State Washington. Postmaster-General.

COPY. B.

Telegram, San Francisco, (undated)

Postmaster-General, Tokio.

Pouches received.

AMERICAN LEGATION,
TOKIO.

No. 362. December 30, 1905.

RECEIVED JAN 29 1906 DIV. OF FAR EAST. BUR. DEPT. OF STATE.

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ASSISTANT SECRETARY, JAN 22 1906

CHIEF CLERK JAN 22 1906 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:- The first ambassador received in Japan.

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AMERICAN LEGATION,
TOKIO.

No. 362. December 30, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to inform you that Sir Claude Maxwell Mac Donald, G. C. M. G., K. C. B., the first ambassador appointed to Japan, presented his credentials to His Majesty the Emperor this morning.

Prior to the arrival of his letter of credence, Sir Claude has been recognized as British Ambassador since the 17th instant.

The new ambassador has served for several years as minister in Tokio. Before coming here he represented his government at Peking.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

UNITED STATES LEGATION,
TOKIO.

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No. 1

January 2, 1906.

ASSISTANT SECRETARY,
JAN 6 1906

CHIEF CLERK
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OF STATE.

Mr. Miller to the Secretary of State.

Subject:- Requesting leave of absence for sixty days.

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No. 1. 15 West 57th St., New York City,

January 2, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington, D.C.

Sir:

I have the honor to request that I may be granted leave of absence for sixty days, beginning January 1, 1906.

I have the honor to be,

Sir,

Your obedient servant,

Rumford S. Miller.

AMERICAN LEGATION,
TOKIO.

No. 363.

January 2, 1906.

ASSISTANT SECRETARY,
JAN 31 1906

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Tokio
Feb 2
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Mr. Huntington Wilson to Mr. Root.

Subject:- Organization of the Residency in Korea.

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AMERICAN LEGATION,
TOKIO.

No. 263. January 2, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to transmit herewith clippings from the "Japan Times" of the 22nd and the "Japan Mail" of the 25th ultimo containing translations of Imperial Ordinances Nos. 267, 268, and 273 of December 20, relating to the organization of the Residency-General and the residencies in Korea.

Amid many details, these ordinances contain several articles which are of interest as indicating the position of the Japanese Resident-General and the extensive powers with which he is clothed.

The resident-General is to communicate with the Emperor of Japan through the Minister for Foreign Affairs and the Prime Minister regarding foreign relations, and through the Prime Minister on all other subjects. He will have charge of all matters touching foreigners and the foreign consulates in Korea, with the exception of whatever business may be in the hands of the legations in Tokio. He will also attend to all matters in respect to which the right of supervision belongs to Japan. The residencies will supplant the Japanese consulates and will take over the judicial functions hitherto exercised by their consular courts. The Resident-General is authorized to issue ordinances with limited punitive provisions, and to call

upon

upon the Japanese garrison when he may deem necessary. In case of his absence or disability his duties will devolve upon the Commander of the Garrison or the Director-General as he may designate.

The principal officials under the Resident-General are to be a Director-General, a Director of Agricultural, Commercial, and Industrial Affairs, a Director of Communications, and a Director of Police Affairs. There is added a large staff of secretaries, engineers, clerks, experts, and police. These are to be attached to the Residency-General or detailed to the different residencies.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

losure:

Clippings in duplicate, as above.

Enclosure with Mr Wilson's No 363, January 2, 1906.

The Japan Times.

TOKYO, FRIDAY, DEC. 22ND, 1905.

On Thursday afternoon an extra edition of the *Official Gazette* was issued containing various Imperial Ordinances relating to the newly-established Residency-General and Residencies in Korea. The following is the translation of the Organization (*Kansei*) of the Residency-General and Residencies:—

IMPERIAL ORDINANCE No. 267.

We, with the advice of the Privy Council hereby give Our Sanction to the Imperial Ordinance relating to the Organization of the Residency-General and Residencies, and order it to be promulgated.

[Imperial Sign-Manual.]

[Privy Seal.]

Dated the 20th day of the 12th month of the 38th year of Meiji.

(Countersigned.)

Count TARO KATSURA,
Minister President of State,
and Minister of State for
Foreign Affairs.

MASAHIRO TERAUCHI,
Minister of State for
War.

ORGANIZATION OF THE RESIDENCY-GENERAL AND RESIDENCIES.

Article I.—The Residency-General (Tōkan-fu) shall be established at Sōul, Korea.

Article II.—A Resident-General (Tōkan) shall be appointed to the Residency-General.

The Resident-General shall be of the *Shin-nin* rank.

The Resident-General shall be under the direct control of the Emperor. With regard to matters appertaining to foreign policy, he shall make representations to the Emperor and ask Imperial Sanction through the Minister of State for Foreign Affairs and the Minister President of State, and with regard to all other affairs, through the Minister President of State.

Article III.—The Resident-General shall be the representative of the Imperial Government in Korea. He shall have general control over matters relating to the foreign consulates and foreigners in Korea, with the exception of such matters as may pass through the foreign Representatives accredited to this Empire. He shall also exercise supervision over such affairs of the Korean Government as may relate to foreigners.

The Resident-General shall exercise supervision over all affairs in Korea the charge of which is entrusted to the Imperial authorities and offices by treaty or convention. He shall also have charge of all other matters of which the right of supervision has hitherto appertained to the Imperial Authorities.

Article IV.—The Resident-General may, when he considers it necessary in order to maintain peace and order in Korea, order the Commander of the Imperial Garrison in Korea to make use of the military forces.

Article V.—With regard to such administrative matters as may be necessitated by obligations based on treaty, the Resident-General shall make communication to the Korean Government and demand the carrying out of such matters. In case of urgent necessity, the Resident-General shall address himself direct to the local authorities concerned and cause them to attend to such matters and render a report to the Korean Government afterward.

Article VI.—The Resident-General shall exercise supervision over the Imperial officials and others in the service of the Korean Government.

Article VII.—The Resident-General shall have the power to issue Ordinances of the Residency-General with punitive provisions of imprisonment for periods not exceeding one year, and fines not exceeding two hundred *yen*.

Article VIII.—When the Resident-General considers that any order or measure by any of the various Government offices is contrary to treaty or law or regulations, or injurious to the public interests, or exceeds the authorized power of such office, he may suspend or rescind such measure.

Article IX.—The Resident-General shall have control of the functionaries under him. As to the appointment or dismissal of officials of *Sōnin* rank, he shall make representations to the Emperor through the Minister President of State. As for officials of Hannin rank and below, he shall have the sole right to appoint or dismiss them.

Article X.—The Resident-General shall make representations to the Emperor through the Minister President of State concerning bestowal of Court rank and decorations.

Article XI.—Besides the Resident-General, there shall be appointed to the Resident-General the following functionaries:—

Director-General	One	Chokunin or Sonin	
Director of Agricultural, Commercial and Industrial Affairs	One	Chokunin or Sonin	
Director of Police Affairs	One	Chokunin or Sonin	
Private Secretary	One	Sonin	
Secretaries	Seven	Sonin	
Police Inspectors	Two	Sonin	
Experts (total)	Five	—	
Interpreters	Ten	Sonin	
Clerks		Sonin	
Police Sergeants		Hannin	
Assistant Experts		Hannin	
Assistant Interpreters		Hannin	

Such Koreans as may be appointed to the Residency-General or any other office under its control, may be accorded the rank of *Sônin* or *Hannin*.

Article XII.—The Director-General shall assist the Resident-General in exercising general direction over the affairs of the Residency-General.

Article XIII.—In case of the disability of the Resident-General, his duties shall be temporarily discharged either by the Commander of the Imperial Garrison in Korea, or by the Director-General, as the Resident-General may determine.

Article XIV.—The Director of Agricultural, Commercial, and Industrial Affairs shall, under the direction of his superiors, have charge of matters relating to agriculture, commerce, manufactures, and all other industries.

Article XV.—The Director of Police Affairs shall, under the direction of his superiors, have charge of police affairs.

Article XVI.—The Private Secretary shall, under the direction of his superiors, have charge of confidential matters.

Article XVII.—The Secretaries shall, under the direction of their superiors, have charge of the business of the Residency-General.

Article XVIII.—The Experts shall, under the direction of their superiors, have charge of technical matters.

Article XIX.—The Interpreters shall, under the direction of their superiors, have charge of the translation of documents and interpretation.

Article XX.—Assistant Experts shall, under the direction of their superiors, attend to technical matters.

Article XXI.—The Resident-General may attach any of the Experts or Assistant Experts of the Residency-General to any of the Residencies.

Such Experts or Assistant Experts shall be under the direction and supervision of the respective Residents.

Article XXII.—The Residencies shall be established at important places in Korea.

The location of the Residencies and the extent of their jurisdiction shall be fixed by the Resident-General.

Article XXIII.—Each Residency shall have the following functionaries:—

Resident	Fônin.
Vice-Resident	Shôkwan.
Clerks	Han-nin.
Police Sergeants	Han-nin.
Interpreters	Han-nin.

In addition to the above *Hannin*, police-inspectors of *Sônin* rank shall be appointed to those residencies, wherever the Resident-General deems it necessary to have such officers.

In the Residencies which have more than two Vice-Residents, one of the latter shall mainly deal with judicial affairs.

The personnel of the Residency shall be fixed by a separate regulation.

Article XXIV.—The Resident, acting under the direction and superintendence of the Resident-General, shall transact the business hitherto belonging to the Imperial Consuls in Korea, as well as the business which pertains specially to the Residency according to the treaties and laws.

Article XXV.—The Resident may ask the Commander of the Imperial Forces stationed in his locality, to despatch troops, if he deems such measure necessary for preserving peace and order; provided that there is not time to ask the Resident-General for instructions.

Article XXVI.—With regard to such Korean local administrative measures as may be necessitated by obligations based on the treaty, Residents may, when they think the matter too urgent to allow time for reference to the Resident-General for instructions, directly cause the respective local Korean authorities to carry out the required measures, and render their reports to the Resident-General afterward.

Article XXVII.—Residents shall have the power to issue Residency Ordinances, with punitive provisions of fines (*bak-kin*) not exceeding ten *yen*, of detention and *kwaryo* (petty fines, smaller than *bak-kin*).

Article XXVIII.—Vice-Residents shall, under the direction of the respective Residents, have charge of the business of the respective Residencies, and shall, in case of disability of the respective Residents, temporarily discharge their duties.

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Article XXX.—The Clerks of the Residency-General and the Residencies shall, under the direction of their superiors, attend to general business.

Article XXXI.—The Police Sergeants of the Residency-General and the Residencies shall, under the direction of their superiors, attend to police affairs, and exercise control and direction over the policemen under them.

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Article XXXIII.—A Police force shall be attached to the Residency-General and each Residency. The policemen shall be of *Hannin* rank.

The number of policemen shall be fixed by the Resident-General.

Note No. 1.

Shinnin,	officials appointed	directly by the Emperor.
Chokunin,	" "	by the Cabinet in the name of the Emperor.
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The Japan Daily Mail.

YOKOHAMA, MONDAY, DECEMBER 25, 1905.

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1. The Communications Bureau in the Residency-General shall be under the control of the Resident-General, and shall discharge duties relating to posts, post-office orders, postal savings banks, telegraphs and telephones in Korea.

6. The establishment of the Communications Bureau shall be:—1 Director; 3 Vice-Directors; 5 Managers of Communications; 15 Assistant-Managers; 4 Engineers; director of Postal Bureau; 180 Communications Clerks; 20 assistant-engineers; 218 clerks, etc.

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The salary of the Resident-General shall be 6,000 *yen* annually.

The salary of the Director-Genetal shall be 4,000 to 5,000 *yen* annually.

The salaries of Directors of Bureaux shall be 3,000 to 3,500 *yen* annually.

The Resident-General shall have an entertaining allowance of 12,000 *yen* annually; the Director-General shall have 3,000 and the Residents 1,500.

Ordinance No. 274 also applies to salaries.

Note №2. No. 274 classifies the personnel in the communications service under the Residency-General and provides for allowances additional to the salaries of the Japanese civil service, to be given postmasters and others while serving in Korea.

Duplicate

Enclosure with Mr Wilson's No 363, January 2, 1906.

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Secretaries	Seven	Sonin.
Police Inspectors	Two	Sonin.
Experts (Gisei)	Five	—
Interpreters	Ten	Sonin.
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AMERICAN LEGATION,
TOKIO.

No. 364. January 3, 1906.

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ASSISTANT SECRETARY, JAN 31 1906

INDEX BUREAU REC'D. JAN 31 1906 DEPT. OF STATE

CHIEF CLERK JAN 31 1906 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:- Chinese students in Japan: regulations governing them: agitation by them.

INDEX BUREAU FEB 2 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 364. January 3, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to bring to your notice the education of Chinese in Japan, which is now on so large a scale as to promise to have some effect upon the relations of these two peoples, and also upon Chinese administration, now that the ancient official examinations have been abolished in China and men of modern education are beginning to be found in office.

During the past year Chinese students have come to this country in continually increasing numbers. Last summer the number was estimated at five thousand, of whom two thousand had been sent at the expense of the Chinese Government. In November the number is said to have reached eight thousand. In addition to the supervision of the Chinese Legation, the students are looked after by eight superintendents sent to reside here by their Government.

Until recently the Japanese authorities seem to have done nothing in this matter; but the magnitude of the number of Chinese students finally made a certain degree of supervision on their part seem wise. Accordingly, regulations for controlling schools open to the Chinese were promulgated by the Minister for Education on November 2nd, to go into effect from the 1st instant.

These regulations require each student to present with his application for admission to a school a letter of recommendation

mendation from the Chinese Minister, Consul, or other representative. The public and private schools which Chinese may attend are limited to those selected by the Japanese Government after an investigation of the teaching staff, curriculum, text-books, and buildings of each school. The regulations are not applicable to elementary (childrens') schools.

From among those schools allowed to admit Chinese, the Government will especially select certain ones and will report them to the Chinese Government as most suitable. The students of these chosen institutions will be required to live in lodging houses approved by the authorities; a careful detailed record of each student will be kept; students expelled from one school will not be allowed to become scholars at another; and an official of the Ministry of Education may be present at and supervise the examinations of the Chinese students.

The publication of these regulations was greeted by a storm of protest. Bodies of Chinese students passed indignant resolutions, saying that their liberty was being assailed, and seemed to find in the new rules an indignity to their nationality. The restriction in choosing schools and lodgings and the need of a letter of recommendation annoyed them most. The agitation was so great that over a thousand students returned to China; and no more have been coming since the trouble.

In the middle of December an official explanation from the Department of Education was given currency through the schools and published in the newspapers. The statement points out that the object of the regulations is merely to protect the students themselves against attending inferior schools and to insure their living in respectable surroundings.

In view of the fact that the Chinese students in Japan are generally young men of a very good class, it is surprising that this misunderstanding went so far as it did. Apparently

parently the trouble was stirred up by a small group of agitators. As a phenomenon it is interesting as a minor manifestation of the new spirit that is now observable among the Chinese people.

Since the governmental explanation the trouble has to all appearances ceased, and the education of Chinese in Japanese schools will doubtless continue on an important scale. Some prominent educators interested in the Chinese are now proposing to form an association of Chinese and Japanese students with the object of bringing about better understanding.

I have the honor to enclose a translation of the regulations in question.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

losure:

Translation of regulations governing Japanese schools admitting Chinese .

Enclosure with Mr. Wilem's No 364. January 3, 1906.
(Translation).

OFFICIAL GAZETTE, NOV. 2, 1905.

REGULATIONS FOR CONTROLLING SCHOOLS OPEN TO THE CHINESE.

I. Public or private schools desiring to admit the Chinese shall require of the applicants to attach to their applications recommendations of any Chinese representative in Japan. (The phrase "Chinese representative" is a translation of the word "Kokwan", which is intended by the authorities to mean the legation, consulate and other authorized representative in Japan.)

II. Public or private schools having the Chinese may allow them to omit at their own request one or more courses in the prescribed curriculum.

III. Public or private schools open to the Chinese are required to keep in the office the books containing the names of the instructors and students, together with the record of the latter's attendance. Correspondence relating to the Chinese students shall also be kept. In the Students' Register mentioned above shall be entered every student's name, home address, age, present address, school record prior to admittance to the present school, the name of the Chinese representative recommending him, government or private student, punishment or reward, the date of admittance, transfer or leaving, the date of graduation, etc.

IV. Public or private schools desiring to grant petitions of the Chinese students to have their credits transferred or to leave shall require the petitioners

to attach to their petitions recommendations of any Chinese representative in Japan.

V. Public or private schools open to the Chinese shall report to the Minister of Education twice a year, namely, in January and July, the number of the Chinese students admitted during the preceding half year.

VI. The Chinese students graduated or expelled shall be reported within one month to the Chinese representative in Japan who has recommended them. In case of dismissal the reason therefor shall also be stated.

VII. Those public or private schools open to the Chinese which the Minister of Education may deem suitable for the purpose will be specially selected and reported to the Chinese Government.

VIII. Those public or private schools which desire to be specially selected as stated in the previous article shall apply to the Minister of Education in the name of the principal or founder. The applicants are required to report on the following points:-

1. The history of the education of the Chinese in their schools.

2. Regulations for educating the Chinese in their schools.

3. A brief account of the life of the principal or chief representative.

4. Names and qualifications of the instructors, together with the statements of their preparation for teaching and of the subject now taught.

5. The maximum number of students that can be admitted, as well as the actual number of them.

6. The method of supervising the Chinese students outside of the school.

7. The conditions of the Chinese students after their graduation.

8. The maps and diagrams of ground, buildings and dormitories used for the education of the Chinese.

9. The expenses for running the school, also stating how or by whom it is maintained.

10. The list of text-books, instruments, machinery and scientific specimens used in the school.

IX. Public or private schools with the special license granted by the Minister of Education shall supervise the Chinese students by making them live in the dormitory or authorized boarding-houses.

X. Public or private schools with the special license shall not admit those Chinese students who have been expelled from other schools on account of objectionable conducts.

XI. The Minister of Education may, whenever he deems it necessary, cause his subordinate official to be present at the examinations or examine the questions and answers of the same. The official thus authorized may order alteration of the questions or of the method of examination in case he should find them unsuitable. The examination papers and students' records shall be kept in the office at least for five years.

XII. Public or private schools with the special license shall report to the Minister of Education on the work accomplished of educating the Chinese within one month from the end of each academic year.

XIII. The Minister of Education may annul the license

whenever the licensed schools violate any of these regulations or whenever their work is unsatisfactory.

XIV. The documents to be presented to the Minister of Education in accordance with these requirements shall be first filed in the office of the local governor.

XV. All these provisions do not apply to elementary schools or these resembling the same.

SUPPLEMENTARY NOTICE.

These regulations shall go in effect on January 1, 1906.

Japan

3 inclosures
To Secy Navy for
transmission to Capt
Jany 23. 1906.
T. R.

LAND TITLE BUILDING
BROAD & SANSOM STREETS
PHILADELPHIA

RECEIVED
JAN 10 1906
BUREAU OF ACCOUNTS, DEPT.

INDEX BUREAU
REC'D.
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1906
DEPT. OF STATE

ASSISTANT SECRETARY.
JAN 9 1906

Haverford, Penna.,
January 3, 1906.

CHIEF CLERK
JAN
8
1906
DEPARTMENT
OF STATE.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I desire to make to you certain recommendations concerning the house built by Mr. Ransford S. Miller, Interpreter of the United States Legation, Tokio, on the Legation grounds, and in connection therewith I have the honor to lay before you the following facts:

When Mr. Miller was appointed to the post of Interpreter to the Legation in 1895 there was a large Japanese house upon the Legation premises adjoining the house of the First Secretary, which was the residence of the Interpreter. Shortly after the Legation buildings were purchased by our Government in 1896 the Interpreter's residence was condemned as unsanitary and torn down. From that period until recently the Interpreter was obliged to find a residence for himself outside of the Legation property, much to the inconvenience of my predecessor and myself. Three years ago Mr. Miller was given permission to

build

build a residence upon the Legation grounds at his own expense. He was encouraged in this by my predecessor, the late Colonel Buck. The duties of the Interpreter are such that they demand his always being accessible to the Minister, and therefore practically necessitate his residing upon the Legation premises. At that time Mr. Miller was quite willing, as a matter of mutual convenience, to erect the house at his own expense, but now personal and other reasons have compelled him to address to me a letter, copy of which I enclose herewith, requesting that the Government take over the building, thus placing him in this respect on the same footing as when he entered the Legation service ten years ago.

Attached to Mr. Miller's letter will be found a statement by J. McD. Gardiner, an architect, of the cost of the house and its fittings, amounting in all to Yen 6535.16, or approximately $3267.58. Mr. Gardiner states that owing to the rise in the price of labor and material caused by the war, the building if erected now would cost twenty per cent. more.

The United States Government provides a residence for the Minister and First Secretary in Tokio, and it seems to me that there is even more reason for providing a residence for the Interpreter, who is an official permanently established in Japan, and whose presence near the residence of the Minister, as stated above, is at all times most necessary. I have the honor, therefore, to heartily endorse Mr. Miller's

request

request and to recommend that the necessary steps be taken so that the United States Government purchase from Mr. Miller the house which he has erected.

I have the honor to be,

Sir,

Your obedient servant,

Lloyd C. Griscom.

ENCLOSURES:

No. 1 - Mr. Miller to Mr. Griscom November 15, 1905.

No. 2 - Certified statement by J. McD. Gardiner as to the cost of residence erected on Legation premises by Mr. Miller.

COPY.

November 15, 1906.

My dear Mr. Griscom:

I beg to lay before you the following facts relating to my house on the Legation grounds at Tokio:

When I was appointed to the post of Interpreter to the Legation in 1898 there was a large Japanese house upon the Legation premises, adjoining the house of the First Secretary, which was the residence of the Interpreter.

Shortly after the Legation buildings were purchased by our Government in 1896 the Interpreter's residence was condemned as unsanitary and torn down.

Three years ago I was given permission to build a residence upon the Legation grounds at my own expense. I believe that you will readily endorse the statement that the duties of the Interpreter are such that they demand his being always accessible to the Minister, and therefore practically necessitate his residing upon the Legation premises. At the time I was quite willing, as a matter of mutual convenience, to erect the house at my own expense, but now personal and other reasons compel me to request that the Government take over the building, thus placing me in this respect on the same footing as when I entered the Legation service ten years ago. Under the registration laws of Japan it is difficult to obtain adequate security of personal rights in a house erected on public property, while on the other hand, experience in Yokohama and else-

where

where has shown the undesirability of having personally owned houses on land held under perpetual lease by the Government.

I enclose herewith a certified statement by the architect of the cost of the house and its fittings. Owing to the rise in prices of labor and material caused by the war the building if erected now would cost twenty per cent. more.

Thanking you for kindly giving this matter your attention, I remain

Very respectfully yours

SIGNED: Ramsford S. Miller

Interpreter of Legation.

the information of

be returned.
has been sent to

ore

a ok
Jany 11

RECEIVED
JAN 9
1906
DIPLOMATIC BUR. DEPT. OF STATE.

TELEGRAM RECEIVED.

FROM TOKIO,

January 8, 1906. 9:34 a. m.

Secretary of State,
Washington.

(Original)

To whom it may concern.

I Hereby certify that the Dwelling House built on the premises of the American Legation, Tokyo, Japan for R. S. Miller, Esq was erected under my supervision at a total Cost of Yen Six thousand five hundred thirty five and sen Sixteen (¥ 6535, 16/100) as itemized below, for all of which items I hold the original receipts - viz -

Paid to Toda Rihei on Contract and Extras,	5517.58	
" Tanaka & Co, Electric lights and Bell wiring	269.51	
" Konori & Ando, Coall finish.	113.44	
" Tokyo Water Works.	134.63	
Architects Honorarium	500.00	6535 16

Signed - J. McD. Gardiner
Architect.

Tobaucho, Tokyo, Japan
November 15th 1905.

the information of

be returned.
has been sent to

Mr.

a ok
Jany 11

RECEIVED
JAN 8
1906
DIPLOMATIC BUR. DEPT. OF STATE.

TELEGRAM RECEIVED.

FROM TOKIO,

January 8, 1906. 9:34 a. m.

Secretary of State,

Washington.

Eighth New Cabinet gazetted last night, Premier Marquis Saionji, Minister Foreign Affairs Tataaki Kato.

WILSON.

INDEX BUREAU
JAN 12
FILED

No. 365

January 8, 1906.

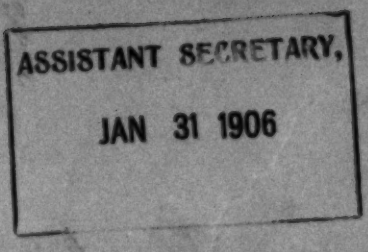
Subject: Consular Convention betw. U.S. and Japan.

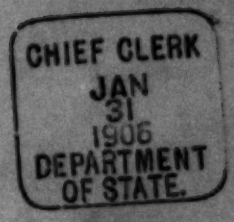
To be found with File No. 1681.

Bd Vol 79

AMERICAN LEGATION,
TOKIO.

No. 365. January 8, ~~1905.~~ 1906.





Thos Hall. 1/3/06.
J.C.

Mr. Huntington Wilson to Mr. Root.

Subject:- A consular convention between the United States and Japan: question of the need of one: draft of possible articles.

AMERICAN LEGATION,
TOKIO.

No. 365. January 8, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to transmit herewith copies of letters from the American Asiatic association of Japan and the Reverend D. C. Greene, D. D., who is one of the principal American missionaries in Japan and among those who have been longest in this country, wherein this legation is asked to bring to your notice certain disadvantages under which American citizens are placed by the absence of a consular convention.

Dissatisfaction is felt chiefly because of the inadequacy of existing arrangements for the administration of estates and for the appointment of guardians, curators, and committees. Dr. Greene also suggests that Japanese officials be authorized to certify translations into Japanese.

The present treaty provisions relating to American consular officers in Japan are confined to Articles XI, XIII and XV of the treaty of 1895, and apply only to the right to appoint consular officers, and to strandings and wrecks of vessels, and the recovery of deserters from ships.

Concerning estates of deceased Americans in Japan, where a will exists and an executor in Japan is therein named, probate and the issuance of letters testamentary

are

are matters of little difficulty. The Civil Code of Japan provides that the existence and effect of a will shall be governed by the law of the nationality to which the testator belongs at the time of its making. The code also provides that succession shall be governed by the law of the ancestor's nationality and that guardianships and curatorships shall be governed by the law of the nationality of the ward. Matrimonial property is governed by the law of the nationality to which the husband belonged at the time when the marriage was contracted, and the effect of a marriage is governed by the law of the husband's country. Concerning the lex loci rei sitae, it is provided that rights in movables and immovables and other rights for which registration is required, shall be governed by the law of the place where the things subject to such rights are situated. When the law of the nationality of a person concerned is to govern and according to the provisions of that law the law of Japan is to govern, the latter governs.

Under Japanese law the registered head of a house is ipso facto administrator of the estate of any member of that house who may die intestate. For this reason a duly certified transcript of the official register establishes at once the authority of such administrator and also the identity of the heirs at law. There is no provision for registration of alien families in Japan, and hence many features of Japanese law are inapplicable to Americans, more especially so in view of the fact that the oriental institution of the "house",(or family corporation, as it may be aptly described,) is unknown to our law.

It would seem, therefore, that many objects now covered by agreements between the United States and other powers are still open to and may recommend themselves for arrangement with Japan.

In

In view of these considerations I venture to submit herewith a draft of articles which appear to me to be suitable for proposal to the Japanese Government to the end of securing more satisfactory conditions. Nearly all of these articles are based upon and closely follow the language of existing treaties to which the United States is a party. In one instance, however, it may be noted that an amplification has been made in the rights of consular officers to represent their countrymen in proceedings before the courts. The Japanese system of criminal procedure resembles that existing in some European countries and is particularly characterised by features which accord with the theory that the accused is presumed to be guilty until he establishes his innocence. After arrest he is subjected to a searching ordeal before an examining magistrate, and it is not until near the time of his trial that he is permitted the full benefit of counsel.

I have also the honor to enclose a translation of the existing Consular Convention between Japan and Germany, which, I am informed, has thus far worked smoothly and given mutual satisfaction, with the exception of the fact that creditors complain of the enforced delay of ten or twelve months before the settlement of claims against estates. The German Legation at Tokio inform me that the Japanese authorities have in nearly all cases foregone the agreed right to act jointly with German consular officers in these matters. Of course the recently enacted Japanese law imposing an inheritance tax may introduce a new element.

In the protocol to the German convention it will be observed that there is a clause bringing within its scope "protégés" or such persons whose national status is of an incomplete character. The question here arises whether the position of citizens of the Philippine Islands

and

and of our other possessions makes advisable the inclusion of some provision suitable to their case.

For further reference I beg to transmit extracts from treaties between Japan and Belgium (1897) and Japan and Great Britain (1900) relating to the administration of estates.

I have the honor to be,

Sir,

Your obedient servant,

Henry Wallbridge.

ENCLOSURES:

1. American Asiatic Association of Japan to Mr. Griscom, May 11, 1905-Copy.
2. Dr. Greene to Mr. Griscom, May 12, 1905-Copy.
3. Draft of Articles for Consular Convention.
4. Translation of Consular Convention between Japan and Germany.
5. Extract from Treaty of 1897 between Japan and Belgium.
6. Extract from Treaty of 1900 between Japan and Great Britain.

(Enclosure No. / with Mr. Wilson's No. 365 of January 8, 1906)

COPY.

AMERICAN ASIATIC ASSOCIATION OF JAPAN,

Yokohama, May 11, 1905.

His Excellency

Lloyd C. Griscom,

American Minister,

Tokio.

Sir:-

The Executive Committee of this Association has instructed me to bring to your notice, and through you, to the notice of the Department of State, the disadvantages under which Americans in Japan are placed by reason of the absence of treaty provisions for the administration by our Consular Officers of the estates of deceased citizens, and to urge early action looking to our relief.

Heretofore the Japanese authorities have not interfered in such administration, but I am informed that very recently orders have been issued requiring Courts of this country to take exclusive charge thereof.

In view of the existing Consular Conventions Between Japan and Germany, Japan and Belgium, and Japan and Great Britain, it is believed that the object sought by us ought not to be attended with difficulty.

I have the honor to be,

Sir,

Your obedient servant,

George H. Seidmore,

Secretary.

(Enclosure No. 2 with Mr. Wilson's No. 365, of January 8, 1906)

COPY.

Tokyo, Ichigaya, May 12th, 1905.

H. E. Lloyd C. Griscom,
American Minister, etc., etc.,
Akasaka, Tokyo.

Sir:-

In my letter to you bearing date of April 17th, I promised to inform you of the result of your explanation of the law of Kansas regarding the appointment of administrators and other matters relating to the settlement of estates, which was contained in your favor of April 16th. Accordingly I write to say that on presenting your statement to the Registrar, he agreed to register the house of the late C. S. Griffin, provided I would obtain from Professor Hijikata of the Department of English Law in the Imperial University a statement explaining the duties of an administrator under American law. This statement was kindly given, but it brought out perhaps more clearly still the necessity of the appointment of an administratrix by the Court, while the court continued to maintain its inability to appoint, because the Japanese law makes no provision for such power on the part of judges.

Finally, seeing no other way out of the difficulty, the President of the District Court which has immediate jurisdiction in probate matters, agreed to informally advise the Registrar to allow registration. The Registrar consented to this extent that he would acknowledge Mrs. Griffin as guardian in the sense that she had the right of protecting the the interests of the heirs, though not as clothed with the right to act for the children in the case of a sale of the house. Since there is no immediate prospect of selling, the present necessity is met and largely through your kind assistance.

As

As I am informed the question of a convention between the United States and Japan is being agitated, I venture to express the hope that, unless it be thought best to go into detail, some general provision be included, in any arrangement arrived for the settlement of estates, for conferring upon the courts dealing with probate matters the power of appointing all officers essential to the administration of such laws of the United States as may be rendered operative under such convention. For example, so far as now appears, there is no way in which Mrs. Griffin can secure adequate recognition as guardian of her children, though the necessity for such recognition must come sooner or later.

There is one other matter which seems to me to need consideration and that is an agreement as to some ready means of securing the certification of translations from English into Japanese. The District Court officials told me to go to the Foreign Office, but Mr. Chinda said there was no precedent and declined to take any responsibility. When this was told the Court officials, they had nothing else to suggest, but eventually decided to accept the certification of my clerk; but it is not conceivable that such a certification would be satisfactory in a contested case. Mr. Chinda did say that were the American Minister to ask the certification of a document, the request might be granted; I can hardly think it wise that you should have that kind of routine forced upon you. There are always interpreters at the fucho and kencho, and it would seem a simpler and, on the whole, better way for some one or more of them, under suitable regulations, to be authorized to make such certificates.

Since in the settlement of estates large use must often be made of foreign documents, it has occurred to me that the insertion in a convention providing for the settlement of estates of a clause regarding the certification of the translation of legal documents was worthy of consideration.

Again thanking you for your kind assistance, I remain

Yours very respectfully,

D. C. Greene.

(Enclosure No. 3 with Mr. Wilson's No. 365, of January 8, 1906)

Classes of Officers.

Each of the high contracting parties agrees to receive from the other Consuls General, Vice Consuls-General, Deputy Consuls General Consuls, Vice-Consuls, Deputy Consuls, Consular Agents and Commercial Agents in all its ports, cities and places, except those where it may not be convenient to recognise such officers. This reservation shall not, however, apply to one of the high contracting parties without also applying to every other Power.

Favored Nation Clause.

Such Consular officers shall enjoy in both countries all the rights, privileges and immunities which are or may hereafter be granted to officers of the same class of the most favored nation.

Flag and coat of arms.

Such officers may place the arms of their nations, with proper inscriptions indicative of their offices, over their offices or dwellings, and may hoist their national flags over such places or on board any vessel employed in the discharge of their consular duties.

Archives.

The consular archives shall at all times be inviolable, and under no pretence whatever shall the authorities of the country of the consular officer's residence be allowed to examine or seize the books or papers contained in them. When, however, a consular

officer is engaged in other business, the consular archives shall be kept in a separate enclosure.

Inviolability of Offices and dwellings.

5

The offices and dwellings of consular officers <u>missi</u> who are not citizens of the country of their residence shall be at all times inviolable. The authorities of such country shall not, except in cases of pursuit for crime, under any pretext invade them. In no case shall they examine or seize papers there deposited. In no event shall such offices or dwellings be used as places of asylum.

Exemption from arrest.

6

Such officers, being citizens or subjects of the country by which they are appointed, shall not be subject to preliminary arrest except in cases of acts specified as crimes by the local legislation and punishable as such, in which cases such officers may be amenable to such legislation or may be deported to their own country.

Exemption from taxes

7

Such officers shall be exempt from all direct taxes, unless such taxes become due on account of the possession of real property or for interest on capital invested in the country in which they reside. If they are engaged in commerce, they shall not enjoy such exemption, but shall be obliged to pay the same

taxes as are paid by other aliens under similar circumstances, but under no circumstances shall their official incomes be subject to any tax.

Exemptions as witnesses.

8

When a court of one of the two high contracting parties shall desire to receive the testimony of a consular officer who is a citizen of subject of the country which appointed him, and who is engaged in no commercial business, it shall request him, in writing, to appear before it, and in case of his inability to do so, it shall request him to give his testimony in writing, or shall visit his office or residence to obtain it orally.

It shall be the duty of such officer to comply with such request with as little delay as possible.

9

In all criminal cases, contemplated by the sixth article of the amendments to the Constitution of the United States, whereby the rights is secured to persons charged with crimes to obtain witnesses in their favor, the appearance in court of consular officers of Japan in the United States shall be demanded with all possible regard to the consular dignity and to the duties of their office. A similar treatment shall be extended to American Consular Officers in Japan in like cases.

Notarial and other functions.

10

Such officers may take within their consular districts the deposition of any person upon matters affecting the interests of their government

or the citizens or subjects of their countries, and may verify unilateral acts, wills and bequests of their countrymen and all contracts entered into between their countrymen and between their countrymen and the citizens and subjects or other inhabitants of the country where they reside; and also all contracts between the latter, provided they relate to property situated in or to business to be transacted in the territory of the nation by which such officers are appointed.

All such documents, and also copies and translations thereof, when duly authenticated by such officers, shall be received by public officials and in courts of justice as legal documents, or as authenticated copies of translations, as the case may be, and shall have the same force and effect as if drawn up or authenticated by competent public officers of one or the other of the two countries.

To apply to and represent their countrymen before authorities.

Such officers shall have the right to apply to the authorities of the respective countries, whether federal or local, judicial or executive, within the extent of their consular districts, for the redress of any infraction of treaties and conventions existing between the two countries, or of international law; to ask information of said authorities, and to address said authorities to the end of protecting the rights and interests of their countryman,

especially in case of the absence or mental or physical incapacity of the latter, in which cases such consular officers shall be presumed to be their legal representatives.

assist their countrymen
trials in court.
ght of access to
cused.

Such officers may, as the natural defenders of their countrymen, and in the absence of, or whenever requested by their countrymen, appear or assist in the name and behalf of the latter in all judicial proceedings, civil or criminal, wherein the latter may be parties, and said consular officers shall have the right to be present, or to employ counsel to be present to defend their countrymen accused of crime and shall, at all times after arrest of such accused, have the right of access to and personal and private consultation with such accused.

12

States.

Such consular officers may take possession of the real and personal property left by any of the citizens or subjects of their countries who shall die within their consular districts, or who shall die at sea and whose property shall be brought within such districts, leaving no legal representatives or trustees duly appointed to take charge of such property. If a will of the deceased be found by such officers they shall take immediate steps to have the same duly proved before the competent local court, shall inventory the property found, shall cause a

13

notice of the death to be published in a newspaper of the place where such death occurred or where such property may be found, shall collect the debts due the deceased, and, so far as the assets of the estate will allow, shall sell at auction, after reasonable public notice such of the property as shall be of a perishable nature and such further part, if any, as shall be necessary for the payment of the debts of the deceased; but they shall pay no claims not reduced to a judgment for damages on account of any wrongful act alleged to have been done by the deceased. Such officers shall dispose of the remainder of the estate according to the instructions of their respective governments. Where the deceased has been engaged in commerce or other business such officers shall hold the remainder of the estate until the expiration of one year from the date of giving notice of the death, during which time, the creditors, if any, of the deceased shall have the right to present their claims against the estate, and all questions arising out of such claims shall be decided by the laws of the country where such claims are made and where such property is found. If no such claims shall have been made, or, if made, not proved against the estate, such officers, at the expiration of said one year, may close the estate and dispose of the remainder thereof in accordance

with instructions from their governments. Whenever there is no consular office in the place where such death occurs or such property is brought or found, the competent local authority shall take all precautions in their power to secure the property of the deceased and shall immediately notify the nearest consular officer of the country to which the deceased belonged and shall deliver over to such officer all of such property when demanded by him.

Ships and Seamen.

Such officers shall have exclusive charge of the internal order and discipline of the merchant vessels of their nation within their respective consular districts and shall alone take cognizance of differences which may arise either at sea or in port between the captain, officers and crews of such vessels, without exception, particularly in reference to the adjustment of wages and the execution of contracts. In case any disorder should happen on board of vessels of either party in the territorial waters of the other, neither the Federal, State, or Municipal Authorities or Courts of the United States nor any court or authority in Japan shall, on any pretext, interfere, except when the said disorders are of such a nature as to cause or be likely to cause a breach of the peace or serious trouble in the port or on shore; or when in such breach of the peace or trouble a person or persons, not forming a part of the crew, shall be implicated.

In any other case said authorities or courts shall not interfere but shall render forcible aid to such consular officers, when they ask it, to search for, arrest, or imprison all persons composing the crew whom they deem necessary to confine and who shall be arrested at the sole request of such consular officers addressed in writing to such authorities or courts and supported by an official extract from the register, articles, or crew list of the vessel, and such prisoners shall be held during the whole time of the stay of the vessel in port at the disposal of such consular officers. The release of such prisoners shall be granted at the mere request of such officers, made in writing. The expense of arrest and detention of such prisoners shall be paid by the consular officers concerned.

15- The judicial and customs authorities of the high contracting parties shall in no case proceed to the examination or search of merchant or other vessels without having given previous notice to the consular officers of the nation to which such vessels belong, in order to enable the said consular officers to be present at such examination or search.

Enclosure No. 4, with Mr. Wilson's No. 365,
of January 8, 1906.

(Translation)

The

Consular Convention

between

Japan and Germany

with

The Protocol

(From the translations of Dr. Löwholm, Professor of Law in the Imperial University of Tokyo, and Mr. Miyaoka, Minister Resident of the Japanese Foreign Office (M))

April 4, 1896.

(M) = Migaoka's translation

(M) "take more exact"

(M) "reciprocal reception"

(M) omitted

His Majesty the Emperor of Japan and His Majesty the German Emperor, King of Prussia in the name of the German Empire being equally desirous to make more definite provisions in regard to the mutual admission of Consular Officers and the right, privileges and immunities which these officers shall enjoy in the exercise of their functions, have resolved to conclude a Consular Convention and for that purpose have named as their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan Viscount Sinzo Aoki, His Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the German Emperor, King of Prussia,

And His Majesty the German Emperor, King of Prussia, Adolf Baron Marschall von Bieberstein, His Minister of State, Secretary of State for Foreign Affairs,

Who, after having communicated to each other their Full Powers found to be in good and due form, have agreed upon and concluded the following Articles:-

Article I.

Each of the Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls and Consular Agents in all the ports, cities and places of the other except in those where it may not be convenient to recognize such officers. This exception, however, shall not apply in regard to one of the Contracting Parties without likewise applying in regard to every other Power.

The respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents, and also Consular Chancellors,

(M) "be applied"

(M) "being likewise applied"

(M) [1]"or"; [2]"as likewise"

secretaries, subordinate officers and attachés, shall enjoy in both countries all the rights, immunities and privileges which are or may hereafter be granted to officers of the same class of the most favored nation.

(M.) "clerks"; in German text "bureau-officers"

(M) "prerogatives"

(M) "the" inserted

(M) "grade"

Article II.

The Consuls-General, Consuls, Vice-Consuls and Consular Agents shall upon the production of their commission in the form established in their respective countries, be mutually admitted and recognized. The requisite exequatur

(M) "be reciprocally received and recognized" inserted

(M) 1 "on producing" 2 "commissions"

(M.) omitted

(M) "necessary"

	shall be delivered to them
(M) "cost and fees"	free of expense whereupon they
(M) "prerogatives"	shall enjoy the rights, privileges
	and immunities reciprocally
	granted.
(M) "be given on producing"	Notice shall simultaneously
	with the production of the
(M) omitted	commission be given of the
(M) "limits of the districts allotted"	jurisdiction assigned to the
(M) "and subsequent notice shall be given of the changes that may be afterwards made therein."	Consular Officer; any subsequent alterations made therein
	shall likewise be notified.
	The Government granting
(M) omitted	the exequatur shall be at liberty
(M) "withdraw"	to revoke the same upon
(M) "reasons for"	stating the grounds on which
	it has thought proper to
	do so.

Article III.

Consular officers, if subjects of the Contracting Party by which they are appointed, shall be exempt from arrest or detention in civil actions and from preliminary confinement in penal cases except in the case of offences which the law of the country regards as crimes. They shall be exempt from military quarterings and contributions and provided that they do not carry on trade, industry or any other business, or pursuit for profit outside of their proper functions, shall

(M) "were"

(M) 1. "imprisonment" 2. "cases"

(M) "arrest"; literally, "imprisonment pending examination."

(M) "cases"

(M) "local law qualifies"

(M) "be not engaged in commerce or manufacture"

(M) "not belonging to their consular functions"; in Japanese, "in addition to their official duties"; in German, "extra-official (or private) pursuit" etc.

(M) 1"exempt" 2"capitation"

also be 1exempted from 2personal or sumptuary taxes and

(M) "other duties or"

from all exactions and contributions of a direct or

(M) "But this immunity"

personal character. This exemption shall not, however, extend to customs, excise, octroi duties or to taxes in

(M) "or"; "literally "local consumption taxes"

(M) "upon"; x"literally, "land property" in German and "land" in Japanese (M) "own".

respect of real property which they may acquire or possess in the country in which they reside.

Consular officers who

(M) "commerce"

engage in mercantile business shall not plead their consular privileges to evade their

(M) "avoid"; "their" omitted in German.

(M) "commercial"

mercantile liabilities.

(M) "case of"

In the event of the arrest

of a Consul or Consular officer, the Legation of his country shall at once be apprized thereof by the Government of the country in which the arrest has taken place.

(M) ∧ "being arrested"

(M) "the Government of the country where the arrest has been made shall immediately give notice thereof to the Legation of his country."

Article IV.

The Consuls-General, Consuls and their Chancellors or secretaries and also the Vice-Consuls and Consular Agents are bound to give evidence in court if the courts of the country deem it necessary. In that case, however, the court shall, request them by official note to appear

(M) omitted

(M) "as well as"

(M) "before the"

(M) omitted

× "judicial authorities in Germany; (M) ∧ "in this case" inserted.

(M) "letter to appear before it"

therein.

(M) "case"

In the event of the said

xxx "being unable to appear in court through" in Japanese

officers being prevented by official business or sickness, the

(M) "court"

judicial authorities shall —

(M) "however in civil cases only"

only however in civil actions

— proceed to their residence

(M) "in order to hear"
xxxx "to hear their testimony" in Japanese.

to examine them orally, or

(M) "request their written testimony conformably to the formalities peculiar to each of the two countries"

shall, in conformity with the formalities peculiar to each of the two countries, request their written testimony. The said

(M) "have to"

officers shall then comply

(M) "court"; "court" in Japanese, but "authorities" in German.

with the request of the authorities

(M) "term fixed"

within the fixed period and

(M) "it"

transmit to them their

(M) "evidence in writing signed and with the official seal affixed."

written evidence with their signature and official seal

affixed thereto.

Article V.

Consuls-General, Consuls, Vice-Consuls, and Consular Agents may set over the outer entrance of their offices or of their residences the arms of their nation with an inscription indicative of their office.

They may also hoist the flag of their country over the building in which the Consular office is situated. They may likewise hoist their flag on every vessel employed by them in harbor on

(M) "place"; omitted

"Gate" in Japanese
(M) "to"

(M) "dwellings."

(M) "house"

(M) omitted

(M) "also"

(M) "board" inserted; "any"

(M) "port for consular services."

official service.

Article VI.

(M) ∧ "the" inserted

∧ Consular archives shall

(M) "be at all times inviolable"

always be respected and un-

(M) "pretence"

der no pretext whatever shall

(M) "local authorities"

the authorities of the country

(M) "allowed to examine"

be permitted to search or

(M) "forming parts of them"; ∆ "sequester" in German, and "distrain" in Japanese

seize the papers belonging

thereto.

(M) "When, however"

If a consular officer is

(M) omitted) ∧ "other" inserted. ∆ "when a ----- business," Japanese version same as (M). (M) "relating"

further engaged in business,

the papers appertaining to the

Consulate shall be kept locked

(M) omitted

up by themselves and apart

(M) "his" inserted

from ∧ private papers.

(M) "dwelling"

The offices and residences

of Consular officers who are

subjects of the country by which they are appointed and do not further engage in trade, industry, or any other professional business shall always be respected.

Except for the purpose of criminal prosecution, the authorities of the country shall under no pretext whatever, force entrance thereinto.

In no case shall they search or seize the papers there deposited. Under no circumstances, however, shall the offices or residences of Consular officers be used as asylums.

(M) "State"

(M) "are not engaged in commerce or manufacture." △..... △ Japanese version same as "(M)."

(M) "be at all times inviolable"

(M) "The local authorities shall not, except in the case of pursuit for crimes, invade them under any pretext whatever."

(M) "examine"

(M) "in no event"

(M) "may the consular offices or dwellings"

(M) "places of asylum"

Article VII.

(M) "event"

°°° "absence or other reasons" in Japanese.

In the case of the death, prevention, or absence of Consuls-General, Consuls, Vice-Consuls and Consular Agents, their chancellors or secretaries△···· may, provided their official character has previously been brought to the knowledge of the proper authorities in Germany or in Japan···△, temporarily [2] take charge of consular affairs, and they shall△···· while acting ····△ in that capacity, enjoy the same rights, privileges and immunities as the officers whom they represent.

(M) omitted
△···· "whose qualifications have previously been communicated to the competent authorities of Germany or Japan" in Japanese.

(M) "made known to the respective"

(M) "may" inserted; [2] "exercise the consular functions"

(M) "while thus acting shall"
△···· "during such administration" in German, "during the discharge of such duties" in Japanese.

(M) "prerogatives"

(M) "whose places they fill"
△△ "Consuls" in Japanese.

for the redress of any violation of the treaties and agreements subsisting between the two countries or of International Law, to request information from the same, and to address the same with a view to the protection of the rights and interests of their nationals. In case such application does not meet with due attention, the said Consular Officers may, in the event of the absence of a diplomatic Representative of their country, apply directly to the Government of the country in which they reside.

(M) "infraction"

(M) "conventions"
△ "arrangements" in Japanese.

(M) "existing"

(M) "ask the said authorities for information".
°° "make enquiries of the said authorities in Japanese.

(M) "the view of protecting"

(M) "countrymen"
° "countrymen" in German "subjects of their country" in Japanese.

(M) "If due attention should not be given to their applications";
△---△ "and if the said authorities do not take measures appropriate thereto" in Japanese.
(M) ° omitted

(M) "aforesaid in the absence of a Diplomatic Agent of their country may.
x "only" inserted in Japanese.

(M) "where"

Article X.

(M) omitted

The Consuls-General, Consuls, Vice-Consuls and Consular Agents of the two Countries or their chancellors shall, so far as they are entitled thereto by the Laws and Ordinances of their country, have the following rights:-

(M) "have the following rights in conformity with their national laws and regulations"

1. To take at their office or official residence, at the residence of the parties, or on board national vessels, the depositions of the captains, crews and passengers of merchants or other subjects of their country.

(M) "of vessels of their own nation."

(M) "on board" inserted

(M) "any" inserted

(M) "own" inserted

2. To draw up and

authenticate unilateral ^acts, wills and bequests of their countrymen, and ^agreements concluded between the subjects of their own country or between such subjects and the subjects or other inhabitants of the country in which they reside; and also such agreements between persons of the latter category as relate to real property situated in the territory of the nation by which the said Consular Officers are appointed or to business to be transacted therein.

3. To translate and

^ "legal" inserted in Japanese
(M) "verify"
△ "certify" in Japanese
○○○ "testamentary disposals" in German; and "wills" in Japanese.
(M) ^ "any and all acts of"
(M) "entered upon"
(M) "where"
(M) omitted
○○ "Land property" in German; "land" in Japanese.
(M) "or to business to be transacted in the territory of the nation by which the said consular officers are appointed."

(M) "legalize" ^ "certify" in Japanese	authenticate all documents
(M) "emanating from"	issued by the authorities or
	functionaries of their country.
	All such instruments
	and also copies, extracts and
(M) omitted	translations thereof shall when
	duly authenticated by the
(M) "under the"	said Consular Officers and
	furnished with the official
(M) ^ "shall"	seal of the Consulate, have
	in either of the two countries
	the same force and effect as
(M) omitted	if they were drawn up or au-
(M) "public notary"	thenticated by a notary pub-
(M) △ omitted	lic or by any other competent
(M) "of"	public or judicial officer in
	one or the other of the two
	countries, subject to the stamp

and other duties and charges imposed by the laws of the country in which they shall be put into execution. (M) "realized"

Article XI.

Diplomatic Representatives, Consuls-General, Consuls and Vice-Consuls have the power, ○ "right" in German and Japanese.
so far as they are entitled (M) "as"
thereto by the laws of the Contracting Party by which they (M) "to do so"
are appointed, to perform marriages of the subjects of (M) omitted
this Party in conformity with (M) "conformably to"
its laws.

×This stipulation does not apply to marriages in which (M) "such"

×× "This stipulation does not apply when one of the married parties is a subject of the country in which the officer resides" in Japanese.

(M) "parties engaged" o omitted

either of the betrothed is a subject of the Contracting Party in whose territory the officer concerned resides.

(M) "in which the respective consular officer resides"

(M) "consular officers" oo "consular officers concerned" in Japanese.

The officers concerned shall immediately give notice to the local authorities of

oo "authorities of the country" in German.

(M) "marriage"

any marriages performed

(M) "according to the above-mentioned"

in accordance with the preceding stipulations.

Article XII.

Diplomatic Representatives, Consuls-General, Consuls and Vice-Consuls shall have

(M) "or"

the right, in conformity with

(M) "conformably to"

the laws and ordinances

(M) "regulations"

of the Contracting Party

by which they are appointed to certify births and deaths of the subjects of that Party.

(M) "their countrymen"

This stipulation does not affect the obligation prescribed by the laws of the country, of those concerned to give notice of births and deaths to the local authorities.

(M) "however"

(M) "duty"

(M) "to the local authorities of births and deaths if so prescribed by the laws of the country"

Article XIII.

Consuls-General, Consuls or Vice-Consuls shall be empowered to appoint guardians and protectors for the subjects of their country, and to superintend in con-

(M) "curators"

(M) "countrymen"

(M) "conformably to the laws of their country.

to control the performation of guardianship or curatorship."

formity with the laws of their own country, the execution of guardianship or protectorship.

Article XIV

(M) "of the death of" inserted

In case a subject of one of the Contracting Parties

(M) "within"

dies in the territory of the other,

(M) "rules"

the following provisions shall be observed:-

1. In the event of a Japanese in Germany or a German in Japan dying at or near

(M) omitted

(M) "the"

a place where a Consul-General, Consul, Vice-Consul

(M) omitted

or Consular Agent of the

(M) omitted

country of the deceased officially

resides, the local authorities	
shall immediately give notice	
thereof to the Consular Officer.	(M) "of the fact"
Should the Consular	(M) "If"
Officer be the first to become	(M) [1] "is"; [2] "to receive information of."
acquainted with the death,	
he shall likewise inform the	(M) "give like notice to"
local authorities thereof.	(M) omitted
Consular officers shall	(M) "he" inserted
have the right, by virtue of	(M) "of affixing their seals either by the authority of their office or at the request of the parties interested, to."
their office or at the instance	
of the parties interested, to put	
under seal all the effects,	(M) "and"
furniture and papers of the	(M) "as well as the"
deceased, after duly apprizing	(M) "having duly notified"
the competent local authorities	
thereof, who have the right	(M) omitted
to be present on the	(M) "of being"

(M) "of affixing"

(M) ∧ "also"

(M) "double seals thus affixed".

(M) "If, however, after the local authorities have been invited."

(M) "assist in removing the double".

(M) "do not present themselves".

(M) "from"

(M) "the invitation"

(M) "may undertake the said operation unassisted."
△....△ "may by themselves proceed to the said official business," in German.
°°- without waiting for the local officials" in Japanese.
(M) 1 "having removed"
2 "consular"

(M) "draw up"

occasion and likewise to set their seals.∧

The jointly-affixed seals shall not be removed without the co-operation of the local authorities. Should the local authorities, however, upon being requested by the Consular Officers to be present at the removal of the jointly-affixed seals, fail to attend within forty-eight hours after the receipt of that request, the Consular Officers △shall be competent to remove the seals °without co-operation△. After the removal of the seals, the ²said officers shall make an inventory

ventory of the goods and effects	(M) "all" inserted
of the deceased in the presence	
of the local authorities if the	× "officials" in Japanese
latter are present in conse-	
quence of the aforesaid request.	(M) "invitation"
The local authorities shall joint-	× "officials" in Japanese.
ly sign the records drawn up	(M) 1 omitted 2 "proces-verbal" × "protocols" in German.
in their presence, but they	
shall not be authorized	(M) "have no right"
to claim fees of any kind	(M) "any fee whatever"
whatever for their official	
co-operation in the proceed-	(M) "transaction"
ings.	
2. The competent local	
authorities shall publish ad-	(M) "advertise in the manner usual in."
vertisements according to the	
usages of the country or as	(M) "in the manner"
prescribed by the laws thereof	(M) "law"

(M) "succession" ∆∆ "opening of the property left behind" in German; "opening of the disposal of the property left by the deceased" in Japanese.
° "the estate" (?)
(M) "and"

in regard to the disposal of hereditaments and the summons of heirs or creditors and communicate them to the Consular officers without affecting thereby the right of the latter to issue similar advertisements.

(M) "The said authorities shall inform the Consular officers of their advertisement."

(M) "however" inserted

(M) "a"

(M) "s" omitted

(M) "The" inserted

3. Consular officers may cause the movable property of the deceased, the preservation of which in its natural state would entail heavy charges upon the estate to be sold by public auction in conformity with the law and usage of the country.

x "original" in Japanese

(M) "involve onerous"

(M) "at public sale"
(M) "in the manner prescribed by"

4. Consular officers shall

keep on deposit subject to the laws of the country, the inventoried effects and articles of value, the amount of claims paid and income and also the proceeds of the sale of furniture if any, until the lapse of a term of ten months from the date of the last advertisements published by the local authorities in regard to the disposal of hereditament or, in default of such advertisement, until the lapse of a term of twelve months from the date of the death.

Consular officers shall, however, have the power to

(M) omitted

(M) "entered in the inventory" inserted. Same in Japanese as (M).

2. "received in payment of debts" "Paid by debtors" in Japanese.

3 "its" inserted

(M) "as well as" "movable property" in Japanese.

(M) "expiration"

(M) "counting"

(M) "issued"

(M) "succession" See Section 2 on the preceding page.

(M) "the absence"

(M) "expiration"

(M) "of immediately deducting"

	deduct previously from the
(M) "assets"; "property left behind," in Japanese, and "assets of the estate left behind" in German. (M) o omitted.	property the expenses of the
(M) omitted	medical treatment and funeral
(M) omitted	of the deceased, the wages of
(M) "cost of" inserted	his servants, the house-rent,
(M) omitted	court and consular fees
(M) "as well as expenses which may have been incurred". "disbursement if required" in Japanese	and other expenses of a
(M) "the family of the deceased" same in German as (M)	similar nature and also any
(M) "except as provided in the last preceding article, the"	disbursements for the support of
	his family.
	5. With the exception of
	the provisions of the preceding
	section, consular officers
(M) "of taking"	shall have the right to
(M) "which"	take all measures that they
(M) "to be for"	may deem conducive to the
(M) "for"	interest of the heirs in the
	preservation of the movable

and immovable property of the deceased. They may administer the estate either in person or through an agent selected by themselves and acting in their name, and they shall have the right to demand the delivery of all articles of value belonging to the deceased[x] whether they be in the public treasury or in the hands of private persons.

(M) "left by"

(M) "such property"

(M) "them"

(M) "names"

(M) "of demanding"

(M) "such articles"

[x] "which are found etc" in German; and "kept in any place whatever, private or public" in Japanese

6. In the event of any disputes arising during the term mentioned in Section 4 out of claims brought against the estate of the

(M) "If during the term mentioned in Paragraph 4 hereof there should arise any dispute as to claims made by the subjects of the country or of a third power against the estate of the deceased, then in that case, the Courts of Justice of

deceased by the subjects of

× "the subjects or citizens" inserted in Japanese.

the country or× of a third power, the law-courts of the country shall have exclusive jurisdiction over such disputes provided they do not relate

(M) omitted

(M) "the said claims are not such of inheritance"

to questions of succession or legacy.

°°° omitted in Japanese

In case the value of the estate of the deceased is insufficient for the full payment of his debts, the creditors may, so far as is permitted by the laws of the country, ×→ apply to the competent local authorities for a declaration of bankruptcy. ←× Upon the declaration resulting therefrom

(M) "ask"

XX "propose to ---- the opening of the meeting of creditors" in German.

(M) "to declare the estate insolvent"

(M) "the declaration having been obtained."

△△ "After the consequent opening of a meeting of creditors" in German; "After the declaration of bankruptcy" in Japanese.

all documents, effects and articles of value belonging to the estate of the deceased shall be delivered to the competent local authorities or to the assignees of the bankrupt's estate, and it shall be the duty of the Consular officers to look after the interests of the subjects of their country.

(M) "the" inserted

(M) "forming a part of the"

(M) △ omitted

(M) "insolvent's"

○ "whereat (during or at which)" in Roman. △ "at the time of delivery" inserted in Jap.

(M) "the Consular officers shall be charged with the duty of taking care of"

7. If at the expiration of the term mentioned in Section 4 no claim lies upon the estate of the deceased, the Consular Officers shall, after all expenses and dues chargeable on the estate in accordance with the Tariff

(M) "fixed by paragraph 4"

(M) "there should exist no claims against the estate"
△△ "there is no one making any claim against" in Japanese.

(M) "after having paid and discharged according to the tariff in force in the country all dues and expenses chargeable against the estate"

in force in the country have been paid and settled, take definitive possession thereof, liquidate, and transfer it to the lawful heirs without having to give an account thereof to other than their own Government.

8. In all questions arising over the opening, administration and liquidation of the estate left by subjects of one of the two countries in the other, the respective Consuls-General, Consuls, Vice-Consuls and Consular Agents shall be legally competent to act for the heirs and shall

"omitted in Japanese
(M) ^ "shall" inserted
^^^^ "take it over" in Japanese.
(M) "of the said estate"

(M) "legal"

(M)[1] "being obliged"
(M)[2] omitted
^---- "to render account" in German; "to forward final accounts in respect thereof" in Japanese
(M) "to any person except"

(M) "relating to the succession"

(M) "the" inserted

(M) "of the"

(M) "arising" inserted

(M) "entitled to represent"

be officially recognized as their representatives without being obliged ^to establish their authority by a ^special ^power of attorney.

^Consular offices may ^cites in person or through an agent qualified therefor, by the law of the country, appear before the competent authorities of the country, and in all matters relating to the estate of the deceased, to look after the interests of the heirs and also to answer claims brought against the ^latter.

They shall, however, be obliged to inform the executor,

^^^^"requiring to certify" in Japanese.
(M) "confirm their powers"
^^omitted in Japanese
(M) "document"
(M) "The" inserted
(M) "therefore present themselves" inserted; "therefore" inserted in Jap.
(M) "who is duly qualified for the purpose".
(M) omitted
(M) "authority"
(M) "they may take care of the interests of the heirs in all matters concerning the estate"
(M) omitted
(M) omitted; ^"them"
(M) "The consular officers"

if any, or the heirs, whether present or represented by agent, of every claim brought before them on the estate in order to enable the executors or heirs to rebut such claims.

It is, however, expressly understood that Consuls-General, Consuls, Vice-Consuls and Consular Agents, being considered as representatives of the subjects of their country cannot lawfully be personally sued for any matter relating to the estate.

9. The right of succession and the partition of the estate of the deceased shall be determined

(M) "in person or by attorney of all the claims"

(M) "which may have been inserted.

(M) "the said consular officers against"

(M) "that"

(M) "may be enabled to take exception to" } "to make their remonstrance to" in German; "to state their objections to" in Japanese.

xx "self-understood" in German; "expressly" omitted in Japanese.

(AL) "omitted"

(M) "matters"

(M) "as well as"

mined according to the laws of his country.	(M) "by the laws"
All claims respecting	(M) "as to"
the right of succession and ^ partition of the estate shall	(M) "to the" inserted
be decided ^[1] by the courts[2] or	(M) [1] "upon" inserted; [2] "Courts of justice"
^ competent authorities of his country and in conformity with	(M) ^ "by the" inserted "other" inserted in Japanese. (M) "the same."
the laws thereof.	(M) "of that country"
10. In the event of the death of a German[1] ^ in Japan or a Japanese[2] ^ in Germany	(M) 1.2. "subject" inserted and also inserted in Japanese, but omitted in German.
at a place at or near which	(M) where or near to
there is consular officer of his country, the competent local authorities shall, ^ in accordance with the laws of	(M) "proceed" inserted
the country, make an inventory	(M) "to take"

	of the property left by the
(M) "affix their seals"	deceased and set their seal
(M) "authentic"	thereto. Authenticated copies
	of these documents shall
	together with the certificate
(M) "documents"	of death and all papers show-
	ing the nationality of the de-
(M) "sent as soon as possible"	ceased be transmitted with
	the least delay to the Consular
(M) "nearest to the place where the estate is"	officer residing nearest to
	the locality of the estate.
	The competent local
(M) "take" inserted	authorities shall, in respect
(M) "to"	of the estate of the deceased
(M) omitted	take all the measures pre-
	scribed by the law of the
(M) "the estate shall be handed over; the same construction in German as in (M); but the Jap. text as given on the right.	country and shall transfer
	the estate, as soon as possible

after the expiration of the term mentioned in Section 4, to the said consular officer or his agent.

It is expressly understood that immediately upon the arrival of a competent consular officer or his agent at the locality of the estate, the local authorities who may have in the meantime, interposed therein shall conform to the foregoing provisions of this Article.

11. The provisions of the present convention shall likewise apply to the estate of the subjects of one of the two

(M) "fixed by paragraph 4 hereof"

(M) "aforesaid"

x "naturally" in German "of course" in Jap.

(M) 1 "from the moment" 2 omitted

(M) "arrives at the place where the estate is"

Δ omitted in German and Japanese.

(M) "interposed in the meanwhile"

(M) "equally"; also in Jap.

(M) 1 omitted 2 "either"

(M) "states"
+ "though" inserted

countries who, dying outside the

(M) 1 "territorial limits"
2 "may" inserted
3 omitted
(M) omitted

territory of the other, have nevertheless left any movable or immovable property therein.

(M) "The" inserted

12. Consuls-General, Con-

(M) "the" inserted

suls, Vice-Consuls and Consular Agents of either country

(M) "have exclusive charge of making"

shall be exclusively authorized

(M) "of taking other steps"

to make inventories and take other official measures necessary for the preservation

(M) "the" inserted

and liquidation of estates left by seamen, passengers and

"nation" in German

other travellers of their nationality

(M) "may" inserted

who have died in the other

(M) "either"

country whether on land or

(M) "of vessels"

on board ship.

Article XV.

Consuls-General, Consuls, Vice-Consuls and Consular Agents may go in person or send a deputy on board vessels of their nationality admitted to free pratique in order to examine the officers and crews, to inspect the ship's papers, to hear declarations respecting their voyage, their destination, and incidents of the voyage, to receive lists of cargo (manifests) to expedite the entry and clearance of their vessels and finally to appear with the said officers and crews before the judicial

(M) "shall be at liberty to go either"

(M) "by proxy"

(M) "nation"

(M) "for"; "commerce"

(M) "receive"

(M) "concerning"

(M) "the" inserted

(M) "also" inserted

(M) "freight .... facilitate"

(M) "accompany" ... "appear before ... in company with ... as" in Japanese.

(M) "or"

(M) "and to assist them as"
△△ "in order to serve them as" in German.

(M) "In the ports where a Consul-General, Consul, Vice-Consul or Consular Agent of one of the two Contracting Parties resides, the authorities of the country are not allowed to perform"

and administrative authorities of the country in the quality of their interpreters or agents.

The public functionaries of the country shall not in the ports where reside Consuls-General, Consuls, Vice-Consuls or Consular Agents of one of the two Contracting Parties, undertake on board merchant vessels, inquisitions, arrests, seizures, searches, examinations, or coercive acts of any kind, excepting the ○-ordinary inspection by customs officers and sanitary police, without previously apprizing the said officers thereof in order to enable

(M) "commercial"
(M) "acts of" inserted
" "S" omitted
(M) "searchings, hearings"

(M) "compulsory"

(M) "unless they have before given notice thereof to the said consular officers in order that they may be present at any proceeding. Such notice, however, is not required in case of ordinary inspections of the Custom-house officers or of the police of health."
○ "ordinary customs and police inspection" in Jap.

them to be present at such proceedings. The Consular officers must likewise be informed ° with a view to their presence in time → When the officers or members of the crew have to give evidence or make depositions before the local courts or authorities. Such notice shall contain the hour appointed for the proceedings. In the event of the non-appearance of the said officers or their agents the case shall proceed in their absence.

(M) "Likewise notice is to be given to the Consular officers in order that they may be present"

°° "at a proper time to enable them to be present when" in Japanese.

(M) "officers or persons belonging to the crew"

(M) "statements"
(M) omitted

(M) "The"

(M) "fixed"

(M) "upon"

(M) 1 "representative"
2 "may be proceeded with"

°° "a court or local authorities may proceed at once notwithstanding their absence" in Japanese

Article XVI.

It shall be the exclusive

(M) omitted

duty of Consuls-General, Consuls, Vice-Consuls, or Consular Agents to maintain internal order on board merchant vessels of their country. They shall exclusively settle disputes between the Captain, officers and seamen, especially those relating to wages and the fulfilment of mutual obligations. Neither a law-court nor any other authorities shall on any pretext interfere in such disputes except in cases in which the disputes on board, are of a nature to disturb the peace and public order in port or on shore

(M) "shall have the exclusive charge of the"

(M) "of the"

(M) "nation"

(M) "and shall have the exclusive power to take cognizance of and to determine differences"

(M) "crews"

(M) "also in reference"

(M) "agreements re-expressly made"

(M) "shall any court or authority" o "the local" inserted in Japanese.

(M) "their differences"

(M) 1 "where"; 2 "differences"

(M) "ship" inserted

or in which persons other than the officers and crew of the vessel are parties to disturbance or dispute.

The authorities of the country shall, however, be obliged unless a subject of the country is concerned to render effective aid to the Consular officers when so requested, in order to find out, arrest, and detain in prison any member of the crew whom they may deem it necessary to arrest. Such persons shall be arrested upon a written application made by the Consular officers to the au-

(M) "where"

(M) "crews of the vessels"

oo omitted in Jap.

(M) "difference"

(M) "However the local authorities shall"

(M) "to render efficient aid to consular officers when the latter shall request it."
oo "except in the case of a subject of that country" in Japanese.

(M) "imprison"
oo omitted in Japanese.

(M) "person belonging to"

(M) 1. "detain, except the person in question is a subject of their country"
2. "the aforesaid"
(M) "at a request of the consular officers made in writing to the local authorities."

(M) "supported"

thorities of the Country and ac-

companied by an authenticated

(M) "register of the ship or the list of the crew"

extract from the ship's

register or muster-roll, and

(M) "shall be held during the stay of the vessel in the port."
(M) o omitted

be detained, while the ship

remains in port, at the

disposal of the Consular Of-

ficers. Their release shall

(M) "be granted"

take place only at the written

request of the said officers.

(M) "expenses"

The costs of the arrest

(M) "those"

and detention of such persons

(M) "paid"

shall be defrayed by the Con-

sular officers.

Article XVII

Consuls-General, Consuls,

Vice-Consuls or Consular Agents

may obtain the arrest of the	(M) omitted △ "require" in Japanese
officers, seamen, and all other	(M) "sailors"
persons belonging to the crew	(M) "making part of"
of the ships-of-war or mer-	(M) "war-ships"
chant vessels of their nation	
who may be convicted of or	○○ "Who are guilty or have been prosecuted on the charge of" in Japanese
charged with desertion from	(M) "guilty or accused of having deserted"
the said vessels, with a view	(M) omitted ; [2] "for the purpose of"
to sending them back on board	(M) [2] omitted
or to their country.	
Consular officers shall	(M) "To that end"
to that end apply to any of	(M) omitted ○○ omitted in Japanese
the competent authorities of	
the country in which they	(M) "where"
reside and make a written	(M) "request in writing" ○○ "by" in Japanese
request in regard to the	(M) △ "for"
deserters, accompanying it	(M) "supporting it by"
with an official extract from	(M) △ "of the register of the vessel and the list of the crew.

the ship's register and muster-roll or with other official documents showing that the persons whose delivery is requested belong to the said crew. Upon a request thus supported and without the exaction of any oath from the Consular officers, the deserters shall be delivered provided that they are, neither at the time of their embarkation nor at the time of their arrival in port, subjects of the country in which the request for their delivery is made.

Every assistance and necessary aid shall be afforded

(M) "to show"

(M) "claimed"

(M) "such"

(M) "not being subject of the country where the request is made either at the time of their shipping or of their arrival in port, shall be given up."

(M) "all"

(M) "moreover" inserted
(M) "furnished for"

them in the search and

arrest of the deserters who (M) "said" inserted "such" in Japanese

shall be put into prisons (M) "taken to the"

of the country and there kept (M) "kept there"

at the request and at the

expense of the Consular of-

ficer until he shall have (M) "find"

found an opportunity to send (M) "of sending"

them away.

If, however, such oppor-

tunity should not occur with- (M) "present itself"

in the period of six months (M) "space"

from the day of the arrest,

the deserters shall be released (M) "set at liberty"

and shall not be again

arrested on the same (M) "for the same cause"

grounds.

Should the deserters have (M) "If the deserters shall"

(M) "any"

(M) "within"

(M) "found"

committed a crime or offence in the country in which they are discovered, they shall not be placed at the disposal of the Consular officers until the tribunal having jurisdiction in the matter shall have given its sentence thereon and executed it.

(M) "proper" inserted "the competent court" in Japanese.

(M) "case"

(M) "pronounced sentence and such sentence shall have been executed"

Article XVIII.

"So far as they do not conflict with agreements etc" in Japan and inserted after "countries"

In the absence of agreements to the contrary between ship-owners, freight-owners and insurers, all averages incurred at sea by vessels of the two countries, whether they enter port voluntarily

(M) "owners", "freighters"

(M) "damages suffered" the same in Japanese as (M)

"during the navigation (or voyage) of" in Jap. and German.

or by stress of weather, shall be determined by Consuls-General, Consuls, Vice-Consuls, and Consular Agents.

(M) "as port of refuge" in German

(M) "the" inserted

In the event, however, the said Consular Officer has an interest in or is agent for the vessel or cargo or a subject of the country, or a subject or citizen of a third Power is interested therein and the parties cannot come to agreement, the authorities of the Country shall make the decision.

(M) "If"

(M) [1] "said"; [2] "if any inhabitant of the country or subject."

(M) "should be interested in the matter."

(M) "agree"

(M) "local authorities"

(M) "decide"

Article XIX.

The present Convention

(M) "Treaty"

(M) "take effect"

(M) "by the Contracting Parties on this day has come into force in all its parts"

shall come into force as soon as the Treaty of Commerce and Navigation agreed upon this day between the Contracting Parties takes effect in its entirety. It shall remain in force for twelve years from the date it goes into operation.

(M) "of the Contracting Parties"

Either Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date this Convention takes effect, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after

such notice is given, the Convention shall wholly cease and determine.

(") omitted in German
(M) "this Treaty"

Article XX.

The present Convention shall be ratified and the ratifications thereof shall be exchanged at Berlin at the same time as those of the Treaty of Commerce and Navigation agreed upon this day, between the Contracting Parties.

(M) "Treaty"
(M) "in"
(M) "with"
(M) omitted

In witness whereof the respective Plenipotentiaries have signed this Convention and affixed thereto their seals.

(M) "the same"

(11) "in the year" inserted

Done at Berlin in duplicate this fourth day of April, 1896.

L.S. Viscomte Aoki

L.S. Freiherr von Marschall.

Protocol

The undersigned Plenipotentiaries have simultaneously with the Consular Convention signed this day agreed upon the following stipulations:-

1. Should there on the day. the Consular Convention signed this day comes into force, ~~,~~ be in the territories of one of the Contracting Parties persons who, being without any nationality, are recognized as protégés of the other Contracting Party, the powers granted by the Consular

(M) "at the same time"

(M) "If" / (M) "when" inserted

(M) "of this date"

(M) "there should" inserted

(M) "either"

(M) "which without being subjects of any Power"

(M) omitted

(M) "rights"

Convention to the respective consular officers in respect of the subjects of their country shall also apply in respect of the aforesaid protégés for the term of their lives. A list of such persons shall be communicated by the respective Governments.

(M) "as in regard to their countrymen"

(M) "extend to". Same in German as (M).

(M) "their lifetime". Same in Japanese as (M)

(M) "those"

× "both" in Japanese.

2. In regard to the reciprocal surrender of criminals and execution of requisitions in penal cases, a special agreement shall be concluded between the Contracting Parties. Until such agreement comes into force, the same rights and

(M) "extradition"

(M) "the" inserted

(M) "there shall be concluded" inserted

(M) [1] "convention"; [2] omitted

(M) "convention"

privileges shall be granted

° "Germany" in Japanese

to the ° German Empire in Japan

(M) "Which in this respect are granted"

as are or may hereafter be

granted by Japan to any

(M) ' "as" ; " "by Germany when"

other country so far as Ger-

(M) a "the"

many, in making application

(M) "reciprocity for like cases is provided to Japan.

therefor, shall assure to Japan

reciprocally under similar

circumstances.

The undersigned Plenipotentiaries have agreed that this Protocol shall be submitted to the two Contracting Parties

(M) "at the same time as"

simultaneously with the Consular Convention signed this day and that when the said Convention is ratified the agreements contained

tained in the Protocol shall also equally be considered as approved, without the necessity of a further formal ratification.

It is also agreed that the stipulations of this Protocol shall terminate at the same time as the said Convention ceases to be binding.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their seals.

Done at Berlin in duplicate this fourth day of

(M) omitted

(M) "the 4th April"

April 1896.

L.S. Vicomte Aoki

L.S. Freiherr von Marschall.

(Enclosure No. 5 with Mr. Wilson's No. 365 of January 8, 1906)

EXTRACT FROM THE CONSULAR CONVENTION OF 1897 BETWEEN JAPAN

BELGIUM.

In case of the incapacity or absence of the heirs or in case of absence of testamentary executors, Consular officers shall have the right jointly with the competent local authorities, to execute all deeds necessary for the preservation and administration of the succession, particularly to affix and to remove the seals, to make up the inventory, to administer and wind up the succession, in one word, to take all necessary measures to safeguard the interests of the heirs, except in case disputes should arise, which should be decided by the competent courts of the country where the succession is open.

(Enclosure No. 6 with Mr. Wilson's No.365, of January 8, 1906)

FROM THE CONVENTION BETWEEN GREAT BRITAIN AND JAPAN-APRIL 26, 1900.

Art. 1.-Whenever a subject of one of the High Contracting parties shall die within the dominions of the other, and there shall be no person present at the time of such death who shall be rightly entitled to administer the estate of such deceased person, the following rules shall be observed:

1. When the deceased leaves, in the above-named circumstances, heirs of his own nationality only, or who may be qualified to enjoy the civil status of their father or mother, as the case may be, the Consul-General, Consul, Vice-Consul, or Consular Agent of the country to which the deceased belonged, on giving notice to the proper authorities, shall take possession and have custody of the property of the said deceased, shall pay the expenses of the funeral, and retain the surplus for the payment of his or her debts, and for the benefit of the heirs to whom it may righly belong.

But the said Consul-General, Consul, Vice-Consul, or Consular Agent shall be bound immediately to apply to the proper Court for letters of administration of the effects left by the deceased, and these letters shall be delivered to him with such limitations and for such time as to such Court may seem right.

2. If, however, the deceased leaves in the country of his or her decease and in the above-named circumstances, any heir or universal legatee of other nationality than his or her own, or to whom the civil status of his or her father or his or her mother, as the case may be, cannot be granted, then each of the two Governments may determine whether the proper Court shall proceed according to law, or shall confide the collection and administration to the respective Consular officers under the proper limitations. When there is no Consul-General, Consul, Vice-Consul, or Consular Agent, in the locality where the decease has occurred (in the case contemplated by the first rule of this Article) upon whom devolves the custody and administration of the estate, the proper authority shall proceed in these acts until the arrival of the respective Consular officer.

AMERICAN LEGATION,
TOKIO.

Taken Feb. 2

No.366,

January 8, 1906.

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CHIEF CLERK JAN 31 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

BUREAU OF ROLLS & LIBRARY FEB 2 1906 DEPARTMENT OF STATE

SUBJECT: Protocols of the Russo-Japan Peace Conference.--enclosing printed copy--

Noted in Library.
Feb. 2. 1906. —H.S.

CHIEF CLERK FEB 1 DEPARTMENT OF STATE.

AMERICAN LEGATION,
TOKIO.

No.366. January 8, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to enclose herewith a copy of the protocols of the Russo-Japanese peace negotiations at Portsmouth, which I received from Baron Komura today. These protocols with their annexes afford the means for a rather complete survey of the course of the negotiations and the steps which led to the final treaty of peace. Apparently only the private conversations between the plenipotentiaries are omitted.

It may be observed that there was an infraction of the agreement to keep all the deliberations secret and to make no declarations to the press except in common, and that Baron Komura called Mr. Witte's attention to the fact.

It is interesting to see, on page 60 in the second paragraph, that Mr. Witte asked the following hypothetical question:- Supposing that Russia should consent to cede the whole island of Saghalien to Japan, would it be possible for Japan to lay aside, on that condition, all idea of monetary reimbursement? It seems certain that Baron Komura could at that time have forced a proposition that Russia should cede all of Saghalien, while paying no indemnity. By the missing of that ppportunity the terms obtained by Japan

appear

appear to be just so much the less satisfactory than they might have been. However, Baron Komura was eager to break off the negotiations unless he could get far better terms than he was finally obliged to content himself with, and only his instructions from Tokio prevented him from taking that step. This is doubtless the cause of his failure to avail of the opportunity to secure the whole of Saghalien,

The enclosure contains some declarations which will be of interest in connection with the provisions of the China-Japan agreement when the latter is made known. Among these may be mentioned the Russian disclaimer of any special rights or privileges, present or future, in Manchuria, either derogatory to the sovereignty of China or incompatible with the principle of equal opportunity, Russia also engaged not to obstruct whatever measures China might take for the development of commerce and industry in Manchuria nor to oppose the opening to foreign commerce of any ports or places whatsoever in that province. In return, Japan promised to continue to keep the port of Dalny open to foreign commerce under the same conditions as under the Russian administration.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURE: "Protocoles de la Conference de Paix entre le Japon et la Russie",- one copy-

Enclosure with Mr. Wilson's No. 366 of January 8, 1906.

秘

PROTOCOLES

DE LA

CONFÉRENCE DE PAIX

ENTRE

LE JAPON ET LA RUSSIE.

PROTOCOLE PRÉLIMINAIRE.

Dans la réunion du 9 Août 1905 qui a inauguré les pourparlers des Plénipotentiaires à Portsmouth, les questions suivantes ont été discutées et résolues de commun accord:

1) Concernant la langue de la Conférence, pour les documents et notes présentés par les Plénipotentiaires Japonais, le texte anglais doit faire foi, et le texte français pour ceux présentés par les Plénipotentiaires Russes. Le protocole de chaque séance qui mentionnera seulement de grandes lignes des délibérations et qui sera rédigé par les secrétaires respectifs (au nombre de trois de chaque côté) sera signé à une des prochaines séances par les Plénipotentiaires. Le traité, si tel était conclu, et les actes supplémentaires, seraient rédigés en langues anglaise et française, le texte français faisant foi.

2) Un secret absolu sera gardé sur les délibérations de Leurs Excellences les Plénipotentiaires. Les déclarations à faire à la presse seront élaborées en commun.

3) Les adjoints spécialistes ne seront pas invités à prendre part aux conférences. Leurs avis seront pris par les Plénipotentiaires, à titre de consultation. Toutefois, exception pourra être faite dans le cas où les deux Parties trouveront nécessaire d'inviter tel ou autre adjoint spécialiste.

4) On est convenu de se réunir comme règle générale tous les jours à deux reprises: de 9 h. ½ à midi et de 3 h. à 5 h. ½. Dans le cas où l'une des Parties désirerait faire un intervalle plus prolongé, un arrangement à cet effet devra être fait d'avance.

Fait en double exemplaire à Portsmouth, le 10 Août 1905.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

PROTOCOLE N° I.

Séance du 10 Août 1905.

La séance est ouverte à 10 h. 15 du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires des deux Parties ont procédé à la signature du document relatif à l'accord intervenu entre eux dans la réunion du 9 Août 1905, au sujet des préliminaires de la Conférence.

Les Plénipotentiaires des deux Parties s'étant ensuite communiqué leurs pleins pouvoirs respectifs, les Plénipotentiaires de Russie ont attiré l'attention des Plénipotentiaires du Japon sur deux points concernant les pleins pouvoirs japonais.

1) La copie de la traduction anglaise de ces pleins pouvoirs, telle qu'elle vient d'être transmise aux Plénipotentiaires de Russie, ne porte aucune signature qui certifie leur identité et l'exactitude de la traduction.

A ce sujet, le Baron Komura a fait observer qu'il est d'usage au Japon de ne point certifier les traductions des pleins pouvoirs, mais que si les Plénipotentiaires de Russie le désiraient, lui et M. Takahira s'empresseraient de munir le document en question de leur signature afin de certifier la conformité de la traduction au texte original. Après quoi, ils ont procédé à la signature dont il s'agit.

2) Le texte d'un passage des pleins pouvoirs japonais, concernant le droit du Souverain, avant de ratifier les stipulations, de les soumettre à un examen de substance et de forme différait essentiellement du passage respectif dans les pleins pouvoirs russes.

A cet effet, les Plénipotentiaires de Russie ont remis aux Plénipotentiaires du Japon la note dont la copie est ci-jointe (Annexe N° I) déclarant que malgré la différence des textes, ils interpréteraient les pleins pouvoirs signés par S. M. l'Empereur de Russie dans les mêmes limites dans lesquelles sont donnés ceux présentés par les Plénipotentiaires du Japon.

Le Baron Komura déclarant à M. Witte que les pleins pouvoirs japonais étaient conformes à ceux donnés dans le but de conclure des traités, quelque importants qu'ils fussent, lui a demandé si le traité que les Plénipotentiaires Russes pourraient

conclure n'avait pas besoin d'obtenir la ratification impériale pour être effectif. M. Witte ayant donné une réponse affirmative, le Baron Komura a fait remarquer que jusqu'à la ratification impériale, les limites des pouvoirs des Plénipotentiaires des deux Parties sont les mêmes.

Après cet échange de vues, la question des pleins pouvoirs a été reconnue comme définitivement réglée.

Au moment d'aborder les questions essentielles, les Plénipotentiaires des deux Parties ont exprimé unanimement leur sincère désir de traiter ces questions avec une entière franchise, en passant sur les questions ne se rattachant pas directement aux conditions de paix ou concernant les détails qui ne pourraient qu'entraver la marche des négociations, et en cherchant le mode le plus expédient pour arriver à une solution favorable.

A cet effet, il a été convenu que les Plénipotentiaires du Japon présenteraient par écrit leurs conditions de paix et que, après avoir soumis ces conditions à un examen attentif, les Plénipotentiaires de Russie présenteraient leur réponse, également par écrit.

Il a été également convenu que les conditions de paix présentées par les Plénipotentiaires Japonais étant rédigées sous forme d'articles, la Conférence après avoir reçu la réponse des Plénipotentiaires Russes, adopterait le mode de discussion article par article.

Après cela, les Plénipotentiaires du Japon ont transmis aux Plénipotentiaires de Russie le texte ci-joint des conditions de paix, en langue anglaise (Annexe N° II) avec une traduction française (Annexe N° III), en faisant observer que cette traduction faite à la hâte, pourrait avoir quelques inexactitudes, et que le texte anglais en devait faire foi, comme il a d'ailleurs été convenu.

Pour terminer la séance, les Plénipotentiaires ont élaboré le texte ci-joint d'une communication à la presse (Annexe N° IV).

Les séances ont été ajournées jusqu'au moment où la réponse russe serait prête.

La séance est levée à 11 h. 50 du matin.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

ANNEXE N° I.

Portsmouth, le $\frac{28 \text{ juillet}}{10 \text{ août}}$ 1905.

Les soussignés, Plénipotentiaires de S. M. l'Empereur de toutes les Russies ont l'honneur de signaler à la sérieuse attention de Lœurs Excellences les Plénipotentiaires de S. M. l'Empereur du Japon ce qui suit.

L'examen attentif des pleins pouvoirs de Leurs Excellences les Plénipotentiaires de S. M. l'Empereur du Japon a constaté une différence importante dans cet acte en le comparant avec les pleins pouvoirs signés par S. M. l'Empereur de Russie.

En vertu du texte de ce dernier document S. M. l'Empereur de Russie promet par Sa parole Impériale d'approuver et de confirmer tout ce que les Plénipotentiaires auront stipulé ou signé.

Tandis que dans la traduction anglaise des pleins pouvoirs des Plénipotentiaires du Japon il est dit " We shall examine all stipulations which our said Plenipotentiaries may agree upon, and finding such stipulations proper and in good and due form, we shall ratify them. "

Vu cette importante différence dans le texte des pleins pouvoirs respectifs, les soussignés se voient obligés de déclarer à Leurs Excellences les Plénipotentiaires du Japon qu'ils interprètent les pleins pouvoirs signés par S. M. l'Empereur, leur Auguste Maître, dans les mêmes limites dans lesquelles sont donnés ceux présentés par les Plénipotentiaires du Japon.

(Signé) Serge Witte.

(Signé) Rosen.

A Leurs Excellences
les Plénipotentiaires du Japon.

ANNEXE N° II.

1. Russia, acknowledging that Japan possesses in Corea paramount political, military and economical interests, to engage not to obstruct or interfere with any measures of guidance, protection and control which Japan finds it necessary to take in Corea.

2. Engagement on the part of Russia to completely evacuate Manchuria within a period to be specified and to relinquish all territorial advantages and all preferential and exclusive concessions and franchises in that region in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity.

3. Japan to engage to restore to China, subject to the guarantee of reform and improved administration, all those portions of Manchuria which are in her occupation, saving only the regions affected by the lease of the Liao-tung Peninsula.

4. Japan and Russia reciprocally to engage not to obstruct any general measures common to all countries, which China may take for the development of the commerce and industries in Manchuria.

5. Saghalien and all islands appertaining thereto and all public works and properties to be ceded to Japan.

6. The lease of Port Arthur, Talien and adjacent territory and territorial waters together with all rights, privileges, concessions and franchises acquired by Russia from China, in connection with or as a part of such lease and all public works and properties to be transferred and assigned to Japan.

7. Russia to assign and transfer to Japan free of all claims and encumbrances, the railway between Harbin and Port Arthur and all its branches together with all rights, privileges and properties appertaining thereto, and all coal mines belonging to or worked for the benefit of the railway.

8. Russia to retain and work the Trans-Manchurian railway, subject to the terms and conditions of the concession under which it was constructed, and subject also to the condition that it is to be employed exclusively for commercial and industrial purposes.

9. Russia to reimburse to Japan the actual expenses of the war. The amount as well as the time and manner of such reimbursement to be agreed upon.

10. All Russian ships of war which, in consequence of damage received in battle, sought asylum in neutral ports and were there interned, to be surrendered to Japan as lawful prizes.

11. Russia to engage to limit her naval strength in the waters of the Extreme East.

12. Russia to grant to Japanese subjects full fishery rights along the coasts and in the bays, harbours, inlets and rivers of her possessions in the Japan, Okhotsk and Behring Seas.

ANNEXE N° III.

(*Traduction*)

1. La Russie, reconnaissant que le Japon possède en Corée les intérêts prépondérants politiques, militaires et économiques, s'engage à ne point obstruer, ni intervenir en ce qui concerne des mesures de direction, de protection et de contrôle que le Japon considérera nécessaire de prendre en Corée.

2. La Russie s'engage à évacuer complètement la Manchourie dans une période qui sera à être déterminée, et à abandonner tous les avantages territoriaux et toutes les concessions et franchises préférentielles et exclusives qui sont attentatoires à la souveraineté de l'Empire Chinois ou qui sont incompatibles avec le principe de l'opportunité égale.

3. Le Japon s'engage à restaurer à la Chine, sous la garantie de réforme et de bonne administration, toutes les parties de la Manchourie qui sont à présent occupées par lui, excepté seulement les régions sur lesquelles le bail de la presqu'île de Liaotong a produit son effet.

4. Le Japon et la Russie s'engagent réciproquement à n'obstruer aucune mesure générale qui sera commune à toutes les nations et que la Chine pourra prendre pour le développement du commerce et de l'industrie en Manchourie.

5. Sakhaline, toutes les îles y appartenant ainsi que tous les travaux et propriétés publics seront cédés au Japon.

6. Le bail de Port Arthur, de Talien, des territoires et eaux territoriales adjacents, ainsi que tous les droits, priviléges, concessions et franchises acquis par la Russie de la Chine, comme ayant rapport avec, ou comme partie de ce bail, de même que tous les travaux et propriétés publics seront cédés au Japon.

7. La Russie s'engage à céder au Japon, libre de toutes réclamations et charges, le chemin de fer entre Harbine et Port Arthur, et tous ses embranchements avec tous les droits, priviléges et propriétés y appartenant, de même que toutes les mines de charbon appartenant au susdit chemin de fer ou en exploitation pour son profit.

8. La Russie retiendra et exploitera le chemin de fer trans-manchourien, soumis aux termes et conditions de la concession en vertu de laquelle il a été construit, et de plus soumis à la condition qu'il doive être exclusivement employé dans le but commercial et industriel.

9. La Russie remboursera au Japon les dépenses réelles de la guerre. Le montant, le moment et le mode de ce remboursement seront convenus.

10. Tous les vaisseaux de guerre russes qui, par suite des dommages subis dans les combats, ont cherché l'asile dans les ports neutres et qui y étaient internés, sont à être remis au Japon comme prises légitimes.

11. La Russie s'engage à limiter sa force navale dans les eaux de l'Extrême-Orient.

12. La Russie concédera aux sujets japonais les pleins droits de pêche le long des côtes, ainsi que dans les baies, havres, anses et rivières de sa possession dans les Mers du Japon, d'Okhotsk et de Behring.

ANNEXE N° IV.

Dans la séance du 10 Août 1905, la question des pleins pouvoirs a été réglée de sorte qu'il n'y a plus de difficultés à ce sujet. Après cela les Plénipotentiaires du Japon ont transmis aux Plénipotentiaires de Russie les conditions de paix par écrit. Il a été décidé que les Plénipotentiaires de Russie se mettront sans retard à l'étude de ce document et donneront au plus vite une réponse par écrit. Jusque là les séances de la Conférence seront ajournées.

PROTOCOLE N° II.

Séance du 12 Août 1905.

La séance est ouverte à 9 h. 45 a. m.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont procédé à la signature du Protocole de la séance précédente du 10 Août.

M. Witte a transmis ensuite à M. le Baron Komura la réponse des Plénipotentiaires de Russie aux conditions de paix présentées par les Plénipotentiaires du Japon à la séance précédente.

Ci-joint copie de cette réponse en langue française (Annexe N° I).

Sur la demande des Plénipotentiaires du Japon, il a été décidé d'interrompre la séance et de la reprendre quand les Plénipotentiaires du Japon auront notifié aux Plénipotentiaires de Russie qu'ils avaient pris connaissance du document russe et qu'ils étaient prêts à procéder à la discussion des conditions de paix article par article.

Le Baron Komura ayant attiré l'attention de M. Witte sur certains articles de journaux concernant les négociations de la Conférence, M. Witte a répondu que le seul moyen d'éviter ces malentendus serait de publier tout ce qui se passe à la Conférence. On s'est engagé mutuellement à faire à l'avenir plus d'attention à l'égard des correspondances des journaux.

On a élaboré le texte d'une communication à la presse (Annexe N° II).

La séance s'est terminée à 10 heures ½ du matin.

A trois heures, la séance est réouverte sur l'invitation des Plénipotentiaires du Japon.

En procédant à la délibération sur l'article premier des conditions de paix, le Baron Komura a transmis à M. Witte une nouvelle rédaction de cet article en langue anglaise (Annexe N° III).

Après en avoir pris connaissance, les Plénipotentiaires de Russie ont attiré l'attention des Plénipotentiaires du Japon sur les points suivants:

1° Dans le projet russe, il y avait une clause spéciale disant que les mesures que le Japon prendrait en Corée ne devait pas porter atteinte aux droits souverains de l'Empereur de Corée. Dans la nouvelle rédaction japonaise de l'Article I, cette clause se trouve omise. Les Plénipotentiaires de Russie ont fait remarquer à ce sujet qu'il était indispensable, au point de vue international, de maintenir cette clause dans le traité, que ce n'était qu'une question de principe et de forme, que la Russie n'avait aucune intention d'empêcher les mesures japonaises en Corée, mais qu'elle ne pourrait à elle seule signer l'anéantissement de la souveraineté de ce pays, car cela pourrait donner lieu à des protestations de la part d'autres Puissances également intéressées au sort de la Corée, et qu'il serait très imprudent de la part du Japon comme de la part de la Russie de ne pas insérer la clause en question.

Les Plénipotentiaires du Japon ont répondu que de leur côté ils ne pouvaient, au contraire, admettre dans le traité l'existence d'une telle clause, puisque de fait cette indépendance n'existait plus dans toute sa plénitude.

Après avoir échangé leurs opinions à ce sujet, les Plénipotentiaires ont décidé de ne pas mentionner du tout dans l'Article I la question de la souveraineté de l'Empereur de Corée, mais d'insérer dans le Protocole la décision suivante: "Les Plénipotentiaires du Japon déclarent qu'il est entendu que les mesures que le Japon peut trouver nécessaire de prendre en Corée à l'avenir et qui portent atteinte à la souveraineté de ce pays seront prises d'accord avec le Gouvernement de Corée."

2° La seconde question qui a soulevé des débats était celle des mesures militaires à prendre sur la frontière russo-coréenne. La version russe de cette clause était: "Le Japon ..... s'abstiendra de prendre des mesures qui pourraient menacer la sécurité du territoire russe limitrophe de la Corée." La nouvelle rédaction japonaise élargissait le sens de cette clause et imposait la même obligation à la Russie par rapport au territoire coréen.

Les Plénipotentiaires de Russie, reconnaissant la justesse de cette réciprocité, ont consenti à l'extention de la clause dont il s'agit, mais ils ont ajouté que la Russie ne pourrait pas être tenue à démanteler les fortifications d'un caractère permanent ayant déjà existé sur la frontière avant la guerre. Les Plénipotentiaires du Japon ont fait remarquer que la clause susmentionnée ne concernait que des fortifications d'une nature provisoire que les deux Parties auraient construites depuis l'ouverture des hostilités et d'autres mesures militaires qu'elles pourraient prendre à l'avenir. Les Plénipotentiaires des deux Parties sont tombés d'accord pour régler la question dans le sens indiqué ci-dessus.

Les Plénipotentiaires de Russie ont ensuite fait remarquer que la rédaction d'un autre passage du premier Article ne leur paraissait pas assez claire. La rédaction russe du passage en question était: "La Russie et les sujets russes jouiront en Corée de tous les droits qui appartiennent ou appartiendront aux autres Puissances

étrangères et à leurs ressortissants." Les Plénipotentiaires du Japon ont ajouté en tête de cette phrase les mots suivants: "subject to the above engagement." D'après les Plénipotentiaires Russes, l'insertion de ces mots pourrait signifier que la Russie et les Russes ne jouiraient pas en Corée de tous les droits qui y appartiennent aux autres Puissances et à leurs ressortissants, mais seulement d'une partie de ces droits, limitée par l'engagement précédent.

Les Plénipotentiaires de Russie ne sauraient donc admettre une pareille rédaction qui, selon eux, mettrait les sujets russes en Corée dans une situation moins favorable que les ressortissants des autres pays.

M. le Baron Komura a fait observer que le Japon n'avait aucune intention d'éliminer les sujets russes des traitements accordés aux ressortissants d'autres Puissances, mais que pour rendre plus claire la stipulation du début de l'Article, il était indispensable d'ajouter les mots en question, et que le résultat serait que les sujets russes jouiront en Corée des mêmes droits que les ressortissants d'autres Puissances. Après une délibération prolongée, les Plénipotentiaires de Russie ont promis de présenter à la séance prochaine une nouvelle rédaction qui rendrait exactement l'idée de M. le Baron Komura.

On a arrêté le texte d'une communication à la presse (Annexe N° IV).

La séance a été terminée à 6 h. ½.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

ANNEXE N° I.

1. Le premier article ne soulève pas d'objection. Le Gouvenrement Impérial, reconnaissant que le Japon possède en Corée des intérêts prépondérants politiques, militaires et économiques, est prêt à s'engager à ne point obstruer ni intervenir en ce qui concerne les mesures de direction, de protection et de contrôle que le Japon considérera nécessaire de prendre en Corée. Il va sans dire que la Russie et les sujets russes jouiront de tous les droits qui appartiennent ou appartiendront aux autres Puissances Etrangères et leurs ressortissants. Il est également entendu que la mise en vigueur par le Japon des mesures susmentionnées ne portera pas atteinte aux droits souverains de l'Empereur de Corée. En ce qui concerne particulièrement les mesures militaires, le Japon, dans le but d'éloigner toute cause de malentendu, s'abstiendra de prendre des mesures qui pourraient menacer la sécurité du territoire russe limitrophe de la Corée.

2. Le Gouvernement Impérial est prêt à accepter la première partie de cet article, et est disposé à faire évacuer par ses troupes la Manchourie simultanément avec l'évacuation des troupes japonaises; les détails et termes d'évacuation pourraient être arrêtés ultérieurement. Quant à la dernière partie de cet article, le Gouvernement Impérial est prêt à déclarer qu'il n'a aucune prétention à des priviléges territoriaux, concessions ou facilités exclusives qui seraient de nature à menacer les droits souverains de l'Empire de Chine et qui seraient incompatibles avec le principe d'égalité de droits. Le Gouvernement Impérial est disposé à donner à cet effet les garanties nécessaires. Ce principe de fond une fois établi, les Plénipotentiaires de Russie proposent aux Plénipotentiaires du Japon de préciser le désir du Gouvernement du Japon concernant cette partie de l'article 2, et ils déclarent que le Gouvernement Impérial est disposé à éliminer tout ce qui pourrait porter préjudice aux intérêts du Japon ou des autres Puissances. La seule entreprise privée russe en Manchourie ayant un caractère public est le chemin de fer de l'Est Chinois; l'examen des questions se rattachant à ce chemin de fer se trouve du reste spécialement traité dans d'autres articles.

3. Le Gouvernement Impérial est prêt à accepter cet article, mais il va sans dire que la Russie et les sujets russes conserveront dans ces parties de la Manchourie tous les droits qui y appartiennent ou appartiendront aux autres Puissances Etrangères et à leurs ressortissants. Pour ce qui est des régions sur lesquelles s'étend le bail de la presqu'île de Liaotong, la Russie est disposée à céder au Japon ses droits aux régions dont il s'agit. Cependant, vu les droits souverains de la Chine à ces régions et les traités passés à cet effet avec le Gouvernement de Chine, une pareille cession ne pourrait se faire autrement qu'en vertu d'une entente avec cette dernière.

4. En accédant entièrement aux pricipes émis dans cet article, le Gouvernement Impérial déclare que si cette stipulation n'avait pas été insérée dans les conditions proposées par le Japon, la Russie se ferait un devoir de la proposer elle-même.

5. Les anciens droits de la Russie à l'Ile de Sakhaline existaient déjà à une époque où le Japon ne possédait, ou du moins n'exerçait, aucuns droits de propriété sur la majeure partie de cette Ile. D'un autre côté, Sakhaline n'est que la continuation naturelle des possessions russes en Asie, vu que cette Ile est séparée du continent par un détroit d'une très petite profondeur et d'une largeur de 7 verstes. En vertu de ces considérations la Russie ne saurait consentir à une cession de cette Ile, mais elle est en même temps toute disposée à reconnaître au Japon le droit d'exploiter largement les pêcheries maritimes et autres entreprises commerciales dans cette Ile. Les conditions d'une pareille exploitation pourraient faire l'objet d'un arrangement spécial.

6. Le Gouvernement Impérial n'aurait pas d'objections à cet article, mais vu les droits souverains de la Chine aux territoires énumérés, la Russie ne pourrait céder ses droits au Japon sans un accord préalable avec la Chine. Il va sans dire que les droits des particuliers dans toute la région sur laquelle s'étend le bail conclu entre la Russie et la Chine, devront rester intacts.

7. Le Gouvernement Impérial accepte en principe cet article, à la condition toutefois qu'il ne pourrait se dessaisir que de la partie du chemin de fer se trouvant actuellement occupée de fait par les troupes Japonaises. La station terminale du tronçon à céder dans ces conditions devra être déterminée d'un commun accord. Il est cependant indispensable d'avoir en vue que c'est à une compagnie privée que la concession pour construire et exploiter la ligne a été accordée par la Chine qui en conserve les droits souverains, et que l'occupation militaire ne devrait porter aucune atteinte aux droits de cette compagnie. Le Gouvernement Impérial est prêt à prendre sur lui de s'entendre avec ladite compagnie tout en autorisant le Gouvernement de Chine à user dès à présent du droit de racheter la ligne en question. La prime de rachat qui revient à la compagnie serait cédée au Japon. (1)

8. Cet article ne soulèvera pas d'objections. La Compagnie du Chemin de fer se conformera strictement—en ce qui concerne l'exploitation de la ligne magistrale de la Manchourie ainsi que du tronçon de la branche sud-manchourienne qui restera en sa possession—aux termes de l'acte de la concession du 27 Août (8 Septembre) dont le § 8 stipule que les troupes ainsi que le matériel de guerre russe qui seraient transportés sur la ligne, ne doivent pas subir d'arrêts sur le territoire chinois.

9. La Russie ne saurait consentir aux stipulations de cet article. Seuls les

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(1) En vertu du § 11 de l'acte du 27 Août (8 Septembre) 1896 concédant à la Banque Russo-Chinoise la construction du chemin de fer,—acte qui fut confirmé par la convention du 14 Juin 1898 pour la construction de la branche sud-manchourienne,—le Gouvernement de Chine a le droit de racheter la ligne à l'expiration du terme de 36 ans après le jour de l'achèvement et de l'ouverture de la ligne.

pays vaincus remboursent les frais de guerre, mais la Russie n'est pas vaincue. Un pays ne saurait se reconnaître comme tel, alors que son territoire a été à peine attaqué par l'ennemi. Quand même le Japon se serait emparé de toute la Province Maritime de l'Amour, les forces vitales de la Russie ne s'en trouveraient nullement atteintes et elle continuerait la lutte. Dans le cas seulement où les Armées Japonaises victorieuses auraient envahi l'intérieur de la Russie la nation pourrait comprendre qu'on soulevât des questions de remboursement de frais de guerre. Les Plénipotentiaires de Russie croient devoir attirer l'attention des Plénipotentiaires du Japon sur le fait que même au Congrès de Paris qui a eu lieu après la prise de Sébastopol, les alliés n'ont pas cru possible de soulever la question d'un remboursement de frais de guerre. Ceux-ci ne sont remboursés que par les pays qui n'ont plus de moyens de continuer la guerre, ce qui n'est en aucnue façon le cas de la Russie.

Mais tout en refusant de rembourser les frais de guerre, le Gouvernement Impérial reconnaîtra équitable d'indemniser le Japon de celles des dépenses qu'il aurait effectuées non pas pour la guerre elle-même et au préjudice de la Russie, mais pour le bien de ceux des russes qui ont souffert par le fait de la guerre. Telles sont les dépenses pour l'entretien des prisonniers de guerre, pour le soin des malades et autres.

10. La Russie ne saurait consentir à cette demande. Il paraît qu'il est difficile de trouver dans la pratique des relations internationales des précédents qui pourraient servir à l'appui d'une pareille exigence. En outre, cette demande ne s'accorde guère avec les intentions pacifiques qui devraient animer les deux Parties négociantes. Les avantages matériels qui seraient acquis par le Japon si les navires russes se trouvant dans des ports neutres lui étaient remis, seraient comparativement minimes. Mais le consentement à une pareille clause serait incompatible avec la dignité de la Russie.

11. La Russie ne saurait consentir à un pareil engagement imposé par une Puissance Etrangère, car ce serait également incompatible avec sa dignité. Le Gouvernement Impérial se croit cependant à même de pouvoir déclarer qu'il n'entre pas dans ses vues, dans un avenir proche, d'entretenir dans les eaux du Pacifique des forces navales considérables.

12. La Russie serait prête à s'entendre avec le Japon pour concéder aux sujets japonais des droits de pêche sur les côtes des Mers du Japon, d'Okhotsk et de Behring. Ces droits ne pourraient cependant s'étendre que sur les côtes des mers elles-mêmes, sans toucher aux anses et fleuves. Il va sans dire que les droits déjà appartenants dans cette région à des sujets russes ou étrangers devraient rester en vigueur.

ANNEXE N° II.

In the sitting of Saturday morning this August 12, Their Excellencies Plenipotentiaries of Russia have handed their reply in writing to the note presented the day before yesterday by Their Excellencies Plenipotentiaries of Japan. It has been decided that the next Conference meet when Their Excellencies Plenipotentiaries of Japan notified that they have studied the document and are ready to continue the deliberation which will be held to-day at 3 o'clock or to-morrow afternoon same hour.

ANNEXE N° III.

1. The Imperial Russian Government, recognizing that Japan possesses in Corea paramount political, military and economical interests, is ready to engage neither to obstruct nor interfere with the measures of guidance, protection and control which Japan will consider necessary to take in Corea. It is a matter of course that, subject to the above engagement, Russia and Russian subjects will enjoy all rights that belong or will belong to any other Powers and their subjects or citizens. It is further understood that in order to remove all causes of misunderstanding Japan and Russia will mutually abstain from taking the measures on the Russo-Corean frontier, which might menace the security of Russian or Corean territory.

ANNEXE N° IV.

Les Plénipotentiaires Japonais, ayant étudié la réponse russe à leurs Conditions de paix, la Conférence s'est réunie de nouveau à 3 h. de l'après-midi pour procéder à leur discussion article par article. La séance a été levée à 7 heures. Demain, étant dimanche, il n'y aura pas de séance matinale, et les Plénipotentiaires se réuniront à 3 heures de l'après-midi pour continuer leurs délibérations.

PROTOCOLE N° III.

Séance du 14 Août 1905.

La séance a été ouverte à 10 heures du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires de Russie ont présenté le texte du premier Article rédigé en conformité des principes émis au cours des discussions qui ont eu lieu à ce sujet à la séance précédente (Annexe N° I).

Les Plénipotentiaires du Japon n'ayant trouvé aucune objection à cette rédaction, le texte du premier Article a été reconnu comme définitivement fixé.

Les Plénipotentiaires ont procédé à l'examen du deuxième Article dont un projet a été présenté par le Baron Komura (Annexe N° II).

Après avoir pris connaissance de ce document, les Plénipotentiaires de Russie ont fait remarquer qu'en stipulant les engagements de la Russie, ce projet ne disait rien des engagements du Japon et que dans le but de maintenir dans cette question une entière réciprocité, il fallait étendre les mêmes engagements sur le Japon et dire que la Russie *et le Japon* s'engagent mutuellement &c.

Le Baron Komura a répondu que les engagements du Japon se trouvaient déjà stipulés dans l'Article III et que l'Article présent ne concernait que la Russie.

M. Witte a fait remarquer qu'il n'avait pas d'objection à consigner les obligations des deux Parties dans deux articles différents, mais que dans ce dernier cas les obligations des deux côtés devraient être rédigées identiquement. Il a ajouté qu'à son avis il était préférable de combiner les deux engagements dans un seul article.

Les Plénipotentiaires du Japon ont accédé à cet avis. Ils ont proposé d'omettre entièrement l'Article III, et de réunir les engagements du Japon qu'il contenait avec ceux de la Russie faisant l'objet du second Article.

Cette proposition a été unanimement adoptée par la Conférence et la première partie du deuxième Article a été définitivement arrêtée comme suit:

"Le Japon et la Russie s'engagent mutuellement: 1° à évacuer complètement et simultanément la Manchourie, à l'exception du territoire sur lequel s'étend le bail

de la presqu'île de Liaotong, conformément aux dispositions d'un article additionnel; 2° à restituer entièrement et complètement à l'administration exclusive de la Chine toutes les parties de la Manchourie qui sont occupées maintenant par les troupes russes ou japonaises ou qui sont sous leur contrôle, à l'exception du territoire susmentionné."

Continuant l'étude du deuxième Article, les Plénipotentiaires ont échangé leurs opinions sur le passage du projet concernant l'engagement de la Russie de n'émettre ni d'appuyer à l'avenir aucune prétention à des priviléges &c. en Manchourie qui porteraient atteinte à la souveraineté de la Chine ou qui seraient incompatibles avec le principe d'opportunité égale.

M. Witte a développé à ce sujet les idées suivaites:

1° Il tenait à préciser que tout droit acquis en conformité des lois, dans des limites déterminées, et sans restriction à d'autre d'acquérir pareils bénéfices, ne peut être considéré comme privilége ou monopole, mais doit être reconnu comme droit légal et indiscutable. La Russie n'a jamais fait de restriction ni aux sujets russes ni aux étrangers d'acquérir pareils droits en Manchourie et elle tient à ce que tous les droits qui existent déjà à ce titre soient maintenus. Mais la Russie n'a jamais émis, appuyé ou sanctionné des droits exclusifs qui répondraient à l'idée de monopole ou de privilége et qui porteraient atteinte à la souveraineté de la Chine.

Le Baron Komura a fait remarquer que certains engagements passés entre les Tsian-Tsuns de Manchourie et des autorités russes concernant, par exemple, l'exploitation de mines dans la province de Girin portaient le caractère de monopole ou de privilége exclusif incompatible avec le principe précité. Il a signalé en outre que le Gouvernement Russe exerçait dans certains endroits—à Harbine par exemple—sur un terrain beaucoup plus étendu qu'il ne fût nécessaire pour l'exploitation du chemin de fer, une autorité administrative, de sorte que les sujets japonais s'y trouvaient à la merci du Gouvernement Russe ne pouvant jouir des droits qu'ils possédaient en vertu du traité entre le Japon et la Chine.

M. Witte a répondu qu'il ne connaissait pas d'engagements ou concessions de mines qui auraient le caractère de monopole ou de privilége exclusif, et que s'il existait réellement de pareils engagements ou concessions, ils n'étaient que des actes des agents russes dépourvus de la sanction impériale et qu'ils devraient et seraient annulés. En ce qui concerne l'état de choses à Harbine, il a déclaré que la seule autorité exercée par la Russie à Harbine était celle du propriétaire dans son bien acquis légalement et de police—ce qui était aussi stipulé par la concession. Il a ajouté que par ces actes les droits publics, tels que le droit de juridiction des étrangers n'étaient nullement atteints. Quant à la concession du chemin de fer de l'Est Chinois, elle a été accodrée par la Chine elle-même en vertu d'un traité et aucun paragraphe de cette concession ne contient d'infraction aux droits de toute

autre personne ou compagnie d'acquérir les mêmes droits en Manchourie.

2° M. Witte a déclaré en outre que les Plénipotentiaires de Russie n'auraient pas d'objections à constater dans l'article en question l'état actuel de choses, à savoir que pour le moment il n'y a pas de concessions ou monopoles en Manchourie, mais que la Russie ne pouvait prendre aucun engagement à ce sujet pour l'avenir, à moins que cet engagement ne fût mutuel pour la Russie et le Japon.

Après cet échange de vues, les Plénipotentiaires ont décidé sur la proposition du Baron Komura de terminer l'Article II par la déclaration suivante:

"Le Gouvernement Impérial de Russie déclare qu'il n'a point en Manchourie d'avantages territoriaux ou concessions ou franchises préférentielles ou exclusives de nature à porter atteinte à la souveraineté de la Chine ou incompatibles avec le principe d'opportunité égale."

Quant à la concession du chemin de fer de l'Est Chinois, les Plénipotentiaires ont décidé de ne pas en faire mention dans l'Article II, vu que cette question est traitée spécialement dans d'autres articles, mais d'enregistrer dans le Protocole la clause suivante:

"Les Plénipotentiaires du Japon et de Russie, dans le but d'éviter toute cause de malentendu à l'avenir, déclarent que la concession de la construction et de l'exploitation du chemin de fer de l'Est Chinois en Manchourie n'est pas incompatible avec le principe de la porte ouverte et du traitement égal, et que dans les limites du terrain acquis en vertu de cette concession les sujets de Sa Majesté l'Empereur du Japon ainsi que les ressortissants d'autres Puissances étrangères jouiront des mêmes droits et priviléges que ceux de Sa Majesté l'Empereur de Russie."

Il a été également convenu que la même clause serait insérée dans le protocole de la séance qui aurait pour objet la ligne de chemin de fer Sud-Manchourienne.

Les discussions terminées, le texte du deuxième Article a été reconnu définitivement arrêté.

Après avoir rédigé un communiqué à la presse (Annex N° III), la Conférence a été terminée à 6 h. du soir.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

ANNEXE N° I.

(English text)

The Imperial Russian Government, acknowledging that Japan posseses in Corea paramount political, military and economical interests, engage neither to obstruct nor interfere with the measures of guidance, protection and control which Japan will find it necessary to take in Corea. It is understood that Russian subjects in Corea shall be treated exactly in the same manner as the subjects or citizens of other foreign Powers, that is to say, they shall be placed on the same footing as the subjects or citizens of the most favoured nation. It is also agreed that, in order to avoid all cause of misunderstanding, Japan and Russia will abstain, on the Russo-Corean frontier, from taking any military measure which may menace the security of Russian or Corean territory.

(Texte français)

Le Gouvernement Impérial Russe, reconnaissant que le Japon possède en Corée les intérêts prépondérants politiques, militaires et économiques, s'engage à ne point obstruer ni intervenir en ce qui concerne des mesures de direction, de protection et de contrôle que le Japon considérera nécessaire de prendre en Corée. Il est entendu que les sujets russes en Corée seront traités exactement de la même manière que les ressortissants des autres pays étrangers, à savoir qu'ils seront placés sur le même pied que les ressortissants de la nation la plus favorisée. Il est de même convenu que pour éviter toute cause de malentendu, le Japon et la Russie s'abstiendront sur la frontière russo-coréenne de toute mesure militaire qui pourrait menacer la sécurité du territoire russe ou coréen.

ANNEXE N° II.

(English text)

2. Taking note of the acceptance by the Plenipotentiaries of Russia of the first part of Article 2 and having regard to their declaration concerning the remaining portions of the same Article, the Plenipotentiaries of Japan propose to modify the stipulation in the following sense:

The Imperial Russian Government engage completely to evacuate Manchuria simultaneously with Japan in accordance with the provisions of the separate

Article annexed to the Treaty of Peace. The Imperial Russian Government also engage fully and completely to restore to the exclusive administration of China all portions of Manchuria which are in their occupation or under their control and they declare that they have not now, and that they will not hereafter advance or support, any claim to any territorial advantages or preferential or exclusive concessions or franchises in Manchuria in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity.

The Plenipotentiaries of Japan deem it essential to fix definitely by means of a separate Article, the details and terms of simultaneous evacuation. The Plenipotentiaries of Japan were under the impression that Russia and Russian subjects possessed several concessions and franchises in Manchuria which trench upon the sovereignty of China or disregard the principle of equal opportunity. The sole desire of the Imperial Government is to fully restore Chinese sovereignty and administration in that region and to revive the principle of equal treatment for all.

The questions connected with the Eastern Chinese Railway will be considered under Articles VII and VIII.

(TEXTE FRANÇAIS)

(*Traduction*)

2. Prenant acte de l'acceptation par Leurs Excellences les Plénipotentiaires de Russie de la première partie de l'article et eu égard à leur déclaration en ce qui concerne les autres parties du même article, les Plénipotentiaires du Japon leur proposent de modifier la stipulation dans le sens suivant:

Le Gouvernement Impérial de Russie s'engage à évacuer complètement la Manchourie simultanément avec le Japon conformément aux dispositions de l'Article séparé qui se trouve annexé au Traité de Paix. Le Gouvernement Impérial de Russie s'engage, de plus, à restaurer entièrement et complètement à l'administration exclusive de la Chine toutes les parties de la Manchourie qui sont occupées par la Russie ou qui sont sous le contrôle russe. Le Gouvernement Impérial déclare, en outre, qu'il n'a pas à présent et qu'il n'émettra ni appuiera à l'avenir aucune prétention aux avantages territoriaux ou aux concessions ou franchises préférentielles ou exclusives quelconques, qui porteront atteinte à la souveraineté de la Chine ou qui seront incompatibles avec le principe de l'opportunité égale.

Les Plénipotentiaires du Japon estiment qu'il est essentiel de fixer définitivement, au moyen d'un article séparé, les détails et les termes de l'évacuation simultanée. Les Plénipotentiaires du Japon avaient une impression que la Russie et les sujets russes possédaient plusieurs concessions et franchises en Manchourie, qui portaient atteinte à la souveraineté de la Chine ou qui méconnaissaient le principe de

l'opportunité égale. Le seul désir du Gouvernement Impérial du Japon est de restaurer entièrement la souveraineté et l'administration chinoises dans cette région et de faire revivre le principe du traitement égal pour tous.

Les questions se rattachant au chemin de fer de l'Est Chinois seront traitées dans les Articles VII et VIII.

ANNEXE N° III.

Dans la séance du matin du 14 Août, le texte de l'Article I a été définitivement arrêté. Dans la séance de l'après-midi, les Articles II et III ont été discutés et arrêtés, et à 6 heures la séance a été levée.

PROTOCOLE N° IV.

Séance du 15 Août 1905.

La séance est ouverte à 10 h. du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont procédé à la discussion de l'Article IV, concernant l'engagement de la Russie et du Japon de ne pas obstruer les mesures que la Chine pourra prendre pour le développement du commerce et de l'industrie en Manchourie.

Prenant acte de l'assentiment de la Russie à cet Article, les Plénipotentiaires du Japon ont exprimé leur satisfaction à ce sujet.

Le Baron Komura, signalant ensuite le fait que, lorsque le Japon, au cours de la négociation d'un nouveau traité sino-japonais à la suite de l'arrangement général intervenu après les désordres des boxeurs en 1900, a demandé à la Chine d'ouvrir quelques endroits en Manchourie au commerce étranger, la Russie a présenté une objection, qui, quoique retirée plus tard, restait toujours pour les villes le long du chemin de fer—a exprimé, dans le but d'éviter tout malentendu à l'avenir, le désir de s'assurer des intentions de la Russie relativement à des ports et endroits ouverts ou à être ouverts au commerce étranger en Manchourie. M. Witte a répondu que ces faits se rapportaient à une époque où la Manchourie, était dans un état de trouble et se rattachaient seulement à quelques stations de chemin de fer. Il a ajouté que la Russie s'engageait à ne point s'opposer à l'ouverture de n'importe quels ports et endroits en Manchourie au commerce étranger, mais que ce serait à condition que cet engagement fût réciproque et comprît la région de Liaotong.

Le Baron Komura a accepté cette manière de voir et a déclaré que le Japon n'aura pas d'objection à maintenir le port de Dalny ouvert au commerce étranger dans les mêmes conditions qu'il l'a été lors de l'administration russe.

Les Plénipotentiaires étant tombés d'accord sur les points ci-dessus, l'Article IV a été reconnu comme définitivement arrêté (Annexe N° I).

La Conférence a procédé ensuite à la discussion de l'Article V, concernant l'Ile de Sakhaline.

Les Plénipotentiaires du Japon ont présenté un mémoire en langue anglaise

avec traduction française (Annexes N^{os} II et III) qui énumérait les raisons pour lesquelles ils ne pouvaient partager les vues et conclusions à ce sujet des Plénipotentiaires de Russie.

Ayant pris connaissance de ce document, les Plénipotentiaires de Russie ont déclaré qu'ils se voyaient néanmoins dans l'impossibilité de changer l'opinion exprimée dans leur réponse à l'Article V ; ils ont ajouté que la Russie se rendait bien compte de la situation actuelle en Extrême Orient, mais qu'elle ne pouvait envisager la prise de Sakhaline autrement que comme un acte de fait et non de droit.

Sur l'invitation du Baron Komura d'exposer les motifs de ce point de vue, M. Witte a dit :

La Russie est prête à faire toutes les concessions qui sont compatibles avec sa dignité nationale ; la preuve en est toutes les concessions déjà faites à cette même Conférence dans des questions d'une bien plus grande importance matérielle, mais ne touchant pas à la dignité de la Russie. Mais la cession d'un territoire qui a été acquis de plein droit, en vertu d'un traité reconnu par le Japon et par l'univers entier, territoire qui a fait partie de l'Empire pendant une période de plus de 30 ans serait un acte, auquel la Russie, dans l'état actuel des choses, ne se voit pas réduite à consentir.

Le Baron Komura a répondu en substance par les considérations suivantes :

Vu un grand nombre de précédents historiques de cessions territoriales par des grandes Puissances, il ne pourrait y avoir aucune question de susceptibilité nationale dans le cas présent. La Russie qui a souvent demandé des cessions territoriales maintient pourtant de bons rapports avec les pays voisins. Il est d'ailleurs nécessaire de régler ici cette question, pour ne pas pousser les choses à l'extrême. La possession de Sakhaline est pour le Japon une question essentiellement vitale et de sécurité nationale, tandis qu'elle n'est pour la Russie qu'une question d'intérêts ayant peu de rapport avec les parties vitales de la Russie.

Depuis près de 250 ans, lorsqu'il n'y avait encore point de russes dans ces parages, le Japon exerçait déjà son droit sur certaines parties de l'Ile. En 1624, les premiers officiers japonais ont occupé l'Ile, et ce n'est qu'en 1803 que les russes l'ont visitée ; ils n'ont occupé l'Amour et Sakhaline qu'en 1850. Les négociations entre le Japon et la Russie commencées en 1851 et terminées par le traité de 1875 ont créé, il est vrai, un titre de droit en faveur de la Russie. Mais le sentinent populaire au Japon ne reconnaît pas l'équité de cette transaction et a toujours envisagé les actes de la Russie par rapport à Sakhaline comme agressifs et comme cas de force majeure. Au point de vue géographique, Sakhaline est la continuation de la chaine des îles japonaises ; au point de vue stratégique, sa possession est indispensable pour sauvegarder la sécurité du Japon.

M. Witte a dit : "Voici les faits historiques tels qu'ils ressortent de documents indiscutables. Jusqu'en 1875 le Japon n'avait à Sakhaline que quelques pêcheries

dans l'extrême Sud, peu nombreuses et éparses. Quant à la partie Nord de l'Ile, elle était à peu près inconnue et n'appartenait à personne.

"Le premier titre de possession a été créé par le traité de 1875, en vertu duquel le Japon a reconnu les droits de la Russie à Sakhaline en échange des Iles Kouriles. Au point de vue économique, je reconnais sa grande importance pour le Japon et c'est là, à mon avis, la principale raison pour laquelle le peuple japonais tient à la possession de l'Ile. C'est pour cela aussi que nous sommes disposés à faire au Japon toutes les concessions possibles surtout pour les pêcheries; mais la jouissance de ces pêcheries n'exige pas une possession politique de l'Ile. A ce point de vue, je me réfère à une phrase que le Baron Komura a prononcée tout à l'heure, il a dit qu'en 1850, quand les russes s'étaient rendus maîtres du territoire de l'Amour, ils ont aussi pris possession de Sakhaline. Cela prouve que, déjà à cette époque, la possession de Sakhaline était reconnue indispensable pour la sécurité de la région de l'Amour. La guerre actuelle a suffisament démontré que la Russie n'a jamais eu l'intention de faire de Sakhaline une base d'agression contre le Japon, mais elle a pour nous une grande valeur défensive; c'est une sentinelle à notre porte, et c'est peut être cela qui tente le Japon; il voudrait être cette sentinelle à la porte du voisin. Si l'on envisage la question au point de vue de la stabilité de la paix à laquelle nous travaillons ici, j'affirme qu'elle le sera bien davantage si Sakhaline reste dans la possession de la Russie que si elle passe au Japon. L'histoire nous démontre que l'annexion de territoires après les guerres entre voisins créait toujours des rancunes prolongées. L'annexion de l'Alsace et de la Lorraine par l'Allemagne en 1871, reste jusqu'à présent la principale source de discorde entre les deux peuples voisins. Au contraire, en 1866 l'Allemagne, sur les instances du Prince Bismarck s'est abstenue d'annexer aucune partie de l'Autriche—et le résultat de cette sagesse a été une alliance qui dure jusqu'aujourd'hui. Le sentiment national russe ne pourrait admettre la perte d'un territoire qui a été longtemps dans la possession légale et paisible de la Russie; un événement pareil créerait dans tout le pays un sentiment unanime de mécontentement, peu favorable à l'œuvre de pacification de l'Extrême Orient qui est l'objet de nos plus ardents désirs."

Le Baron Komura revenant sur la question des droits historiques du Japon, a cité le fait de la découverte en 1800 d'un détroit par un japonais Mamiya dont le nom lui fut donné, et a affirmé que déjà en 1803 le Gouvernement Japonais s'occupait de l'Ile, quoique, faute de communication convenable, son action ne pût s'exercer d'une manière très efficace. En 1853, il commençait à administrer activement cette Ile, de sorte que sa prise de possession par la Russie soit par l'occupation soit par la diplomatie a été toujours regardée par les japonais comme un acte d'agression. Le peuple japonais, conscient de son droit historique sur l'Ile, est invariablement pénétré de profonds sentiments qui sont vivifiés à un suprême degré

par sa récente occupation.

Pour ce qui est de la remarque de M. Witte que "la guerre actuelle a suffisamment démontré que la Russie n'a jamais eu l'intention de faire de Sakhaline une base d'agression contre le Japon," le Baron Komura lui a fait observer que, si le théâtre principal de la guerre présente était dans les Provinces Maritime et d'Amour, au lieu de la Manchourie, Sakhaline aurait certainement servi à la Russie comme une base importante.

Faisant ensuite allusion aux germes de discorde entre les deux pays invoqués par M. Witte, le Baron Komura a fait remarquer que des discordes futures ne pourraient exister que dans le cas où des cessions territoriales manquaient de base raisonnable, ce qui n'est pas du tout le cas de la cession de Sakhaline. D'ailleurs la Russie est seulement invitée à reconnaître un fait accompli. Le Gouvernement Japonais serait disposé à donner à la Russie des garanties sérieuses pour assurer la sécurité des possessions de l'Amour contre toute agression du côté de Sakhaline, si le Japon devenait maître de cette Ile. Le Baron Komura a exprimé de plus l'espoir que les raisons développées ci-dessus seraient considérées comme suffisantes par les Plénipotentiaires de Russie, et qu'il ne serait pas obligé d'invoquer d'autres arguments basés sur le droit de guerre.

M. Witte a répondu qu'il ne voyait pas de raison pour changer son avis. Les droits historiques du Japon lui paraissaient peu fondés. Il ignorait le fait de la découverte du détroit par un japonais, mais ce fait ne change pas la situation. Bien longtemps après cette découverte, personne au Japon ne songeait à Sakhaline. Ce n'est que la prise de possession de cette Ile par Mouravieff qui a attiré l'attention des japonais en leur donnant pour la première fois l'idée que Sakhaline devait avoir quelque importance puisque les russes ont trouvé utile de l'annexer. Par conséquent, le sentiment populaire au Japon ne peut être basé que sur un regret de n'avoir pas annexé l'Ile quand c'était possible. "Chez nous, le sentiment populaire est donc bien plus sérieux et il nous est impossible de le méconnaître si nous voulons arriver à une paix solide." Pour ce qui est de l'occupation de l'Ile par les japonais à la veille de la Conférence, ce n'est qu'un acte de guerre qui ne crée pas encore un titre de possession légale.

Le Baron Komura a demandé aux Plénipotentiaires de Russie de reconsidérer cette question dans un esprit de conciliation, en résumant les principaux arguments suivants:

1. Les Plénipotentiaires du Japon ne méconnaissent nullement le sentiment du peuple russe; mais le sentiment de la nation japonaise existant toujours depuis un demi siècle, vient d'être vivifié à un suprême degré à la suite de l'occupation actuelle de l'Ile.

2. Quoique la possession de Sakhaline puisse être importante aussi bien pour

l'un que pour l'autre des deux pays, il existe une grande différence entre les deux cas. Pour la Russie, elle n'est qu'une question d'intérêt, tandis qu'elle est pour le Japon une question de sécurité nationale.

3. Comme la possession de Sakhaline par le Japon n'a pour but que la défense du pays, elle ne peut être ni une menace contre la Russie ni un danger pour la paix de l'Extrême Orient.

4. La Russie a deux moyens: soit reconnaître tacitement l'occupation japonaise, en la laissant sans rien faire; soit s'entendre avec le Japon au sujet de la disposition de Sakhaline.

5. Il est avantageux, pour les relations amicales des deux pays à l'avenir, de résoudre à présent d'une manière satisfaisante cette question d'un commun accord.

M. Witte a dit qu'il avait déjà suffisamment répondu à tous ces arguments du Baron Komura et qu'il n'avait pas à revenir sur eux.

Les explications des Plénipotentiaires de Russie au sujet de ces arguments peuvent être résumées comme suit:

1. Le sentiment populaire en Russie est bien plus sérieux que celui du peuple japonais, car il est basé non pas sur un regret de n'avoir pas pris possession d'un territoire voisin quand c'était possible, mais sur le regret de perdre une partie intégrale de l'Empire de Russie.

2. La possession de Sakhaline n'est pas seulement une question d'intérêt pour la Russie, mais surtout une question de sécurité nationale, car cette Ile par sa situation géographique même, protège l'accès à la Province de l'Amour.

3. La possession de Sakhaline par la Russie a bien démontré que cette Ile n'a jamais été, et ne peut être ni une menace contre le Japon ni un danger pour la paix de l'Extrême Orient.

4. La Russie n'a qu'un seul moyen d'agir en vue de l'occupation de Sakhaline par le Japon, celui de ne pas reconnaître cette occupation pour un acte de droit, et de laisser à l'histoire le temps de prononcer son jugement.

5. Les Plénipotentiaires de Russie partagent entièrement l'avis du Baron Komura qu'il serait avantageux, pour les relations amicales des deux pays à l'avenir, de résoudre à présent d'une manière satisfaisante cette question d'un commun accord; c'est pour cela qu'ils espèrent que les Plénipotentiaires du Japon reconsidéreront leur opinion au sajet de Sakhaline.

Après quoi les Plénipotentiaires ont constaté qu'ils ne pouvaient tomber d'accord pour la question de Sakhaline et ont décidé de passer à la délibération de l'Article VI.

Une communication à la presse a été rédigée et confirmée par les Plénipotentiaires (Annexe N° IV).

La séance a été suspendue à midi et demi jusqu'à 3 h. de l'après-midi.

La séance est reprise à 3 heures.

Les Plénipotentiaires ont procédé à la discussion de l'Article VI, qui avait été proposé par les Plénipotentiares du Japon dans les termes suivants:

"Le bail de Port Arthur, de Talien, des territoires et eaux territoriales adjacents ainsi que les droits, priviléges, concessions et franchises acquis par la Russie de la Chine comme ayant rapport avec ou comme partie de ce bail, de même que tous les travaux et propriétés publics seront cédés au Japon." (Texte anglais, Annexe N° V).

Les Plénipotentiaires de Russie avaient exprimé à ce sujet dans leur réponse que le Gouvernement Impérial n'aurait pas d'objection à cet article, mais que, vu les droits souverains de la Chine sur le territoire énuméré la Russie ne pourrait céder ses droits au Japon sans un accord préalable avec la Chine et qu'en outre les droits des particuliers dans tout le territoire en question devait rester intacts.

Afin de concilier les deux points de vue les Plénipotentiaires du Japon ont présenté à cette séance une nouvelle rédaction de l'Article VI (Annexe N° VI) qui, à leur avis, tenait compte des remarques russes. Dans ce projet les mots "*seront cédés* au Japon" se trouvent remplacés par l'expression "le Gouvernement de Russie *renonce en faveur du Japon*," ce qui, à l'avis des Plénipotentiaires du Japon, rendait inutile le consentement préalable de la Chine à la transaction dont il s'agit et laissait tous les soins d'obtenir un pareil consentement au Japon lui-même.

Les Plénipotentiaires de Russie n'ont pas cru possible de partager cet avis. La convention formelle conclue avec la Chine au sujet du territoire de Liaotong obligeait la Russie de respecter les droits de la Chine et de n'entreprendre aucune modification de l'engagement consigné daus la convention, encore moins un transfert complet de tous ses droits et obligations à une tierce Puissance, sans le consentement formel de la Chine.

Le Baron Komura a fait remarquer qu'il ne doutait certainement pas de la bonne foi de la Russie, mais que la nécessité même d'obtenir le consentement de la Chine avant que la stipulation de cet Article puisse entrer en vigueur, rendrait nulle la valeur de cette stipulation.

Les Plénipotentiaires de Russie ont répondu qu'ils consentaient à ajouter à l'Article VI un engagement formel de la Russie de prêter son concours à obtenir de la Chine le consentement nécessaire.

Après échange d'opinions sur la meilleure manière d'exprimer l'Article VI, les Plénipotentiaires des deux Puissances ont accepté définitivement la rédaction suivante de cet Article:

"Le Gouvernement Impérial de Russie cède au Japon à condition du consentement du Gouvernement de Chine, le bail de Port Arthur, de Talien, des territoires et eaux territorilales adjacents, ainsi que tous les droits, priviléges, concessions et franchises se rattachant à ce bail ou en faisant partie, et il cède au Japon tous les

travaux et propriétés publics dans le territoire sur lequel s'étend le bail susmentionné.

"Les Hautes Parties Contractantes s'engagent mutuellement à obtenir le consentement du Gouvernement Chinois, mentionné dans la stipulation ci-dessus.

"Le Gouvernement Impérial du Japon donne, de sa part, l'assurance que les droits de propriété des sujets russes dans le territoire indiqué ci-dessus, seront parfaitement respectés." (Texte anglais, Annexe N° VII).

Après avoir rédigé une communication à la presse (Annexe N° VIII) la séance a été levée à 6 heures du soir.

(Signé) SERGE WITTE. (Signé) JUTARO KOMURA.

(Signé) ROSEN. (Signé) K. TAKAHIRA.

ANNEXE N° I.

(English text)

4. Japan and Russia reciprocally engage not to obstruct any general measures common to all countries, which China may take for the development of the commerce and industries in Manchuria.

(Texte français)

4. Le Japon et la Russie s'engagent réciproquement à n'obstruer aucune mesure générale qui sera commune à toutes les nations et que la Chine pourra prendre pour le développement du commerce et de l'industrie en Manchourie.

ANNEXE N° II.

(English text)

5. The Plenipotentiaries of Japan regret to say that they are unable to share the views and conclusions of the Plenipotentiaries of Russia on the subject of Article V. They believe that Japan's title to at least a larger part of Saghalien can readily be traced to a period anterior to the Russian occupation and it seems to them that instead of being a natural continuation of the continental system of Asia, it forms a natural and necessary link in the chain of insular units of which the Empire of Japan is exclusively composed. But the main considerations which led Japan to ask for the cession of the Island are that (1st) the permanent security of the Japanese Empire requires the exclusive control of the Island by Japan and (2nd) by the hazard of war Saghalien has come into the complete possession and occupation of Japan and it is now under her exclusive administration, the authorities of Russia having been replaced by those of Japan. What the Plenipotentiaries of Japan desire is to have the title thus acquired confirmed by a formal cession from Russia.

(Texte français)

(*Traduction*)

5. Les Plénipotentiaires du Japon regrettent de constater qu'ils sont dans l'impossibilité de partager les vues et les conclusions des Plénipotentiaires de Russie

au sujet de l'Article V. Ils croient que le titre du Japon à la majeure partie au moins de Sakhaline peut être facilement démontré même à l'époque antérieure à l'occupation russe; et il leur semble qu'au lieu d'être la continuation naturelle du système continental de l'Asie, cette Ile constitue un anneau naturel et nécessaire de la chaine des unités insunaires dont l'Empire du Japon se compose exclusivement. Mais les considérations principales qui ont amené le Japon à demander la cession de cette Ile sont: (1) la sécurité permanente de l'Empire du Japon exige le contrôle exclusif de l'Ile par lui, et (2) par la fortune de la guerre, Sakhaline est entrée dans la possession et l'occupation complètes du Japon, et elle se trouve actuellement sous son administration exclusive, les autorités Russes ayant été remplacées par celles du Japon. Ce que les Plénipotentiaires du Japon désirent, c'est de voir le titre ainsi acquis se confirmer par une cession formelle de la Russie.

ANNEXE N° IV.

In the morning sitting of August 15th the Conference has discussed Articles IV and V. Article IV was unanimously agreed upon. Not being able to arrive at an unanimous decision on Article V, the Plenipotentiaries have decided to take note of the divergency of views and to proceed with the discussion of the other Articles. The meeting will be resumed at 3 o'clock this afternoon.

ANNEXE N° V.

The lease of Port Arthur, Talien and adjacent territory and territorial weters together with all rights, privileges, concessions and franchises acquired by Russia from China, in connection with or as a part of such lease and all public works and properties to be transferred and assigned to Japan.

ANNEXE N° VI.

(ENGLISH TEXT)

6. The Plenipotentiaries of Russia having no objection in principle to this Article, the Plenipotentiaries of Japan believe that the technical difficulties may readily be removed. The Imperial Government of Japan are prepared to accept the transfer in such manner as to relieve the Imperial Government of Russia of all responsibility towards China. That result would be realized if the stipulation were made to read:—

The Imperial Russian Government relinquish in favour of Japan the lease of Port Arthur, Talien and adjacent territory and territorial waters and all rights, privileges, concessions and franchises connected with or forming part of such lease and they also assign and transfer to Japan all public works and properties in the territory affected by the above mentioned lease. The Imperial Government of Japan on their part undertake that the proprietary rights of individuals in the territory above referred to, shall be respected.

ANNEXE N° VII.

6. The Imperial Russian Government transfer and assign to Japan, subject to the consent of the Chinese Government, the lease of Port Arthur, Talien and adjacent territory and territorial waters and all rights, privileges, concessions and franchises connected with or forming part of such lease and they also assign and transfer to Japan all public works and properties in the territory affected by the above mentioned lease.

The High Contracting Parties mutually engage to obtain the consent of the Chinese Government mentioned in the above stipulation.

The Imperial Government of Japan on their part undertake that the proprietary rights of Russian subjects in the territory above referred to, shall be perfectly respected.

ANNEXE N° VIII.

In the afternoon sitting of the Conference of August 15, Article VI has been discussed and agreed upon with common accord and adjourned until to-morrow morning 9. 30.

PROTOCOLE N° V.

Séance du 16 Août 1905.

La séance était ouverte à 9 heures 45 du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont procédé à la discussion de l'Article VII.

La rédaction primitive de cet Article dans le projet japonais était ainsi conçu:

"La Russie s'engage à céder au Japon, libre de toutes réclamations, le chemin de fer entre Kharbine et Port Arthur, et tous ses embranchements avec tous les droits, priviléges et propriétés y appartenant, de même que toutes les mines de charbon appartenant au susdit chemin de fer ou en exploitation pour son profit."

Les Plénipotentiaires de Russie, tout en acceptant cet Article en principe, avaient fait à ce sujet dans leur note responsive, les remarques suivantes:

Le Gouvernement Impérial de Russie, ne pourrait se dessaisir que de la partie du chemin de fer se trouvant actuellement occupée de fait par les troupes japonaises. La station terminale du tronçon à céder dans ces conditions devra être déterminée d'un commun accord. Il est cependant indispensable d'avoir en vue que c'est à une compagnie privée que la concession pour construire et exploiter la ligne a été accordée par la Chine qui en conserve les droits souverains, et que l'occupation militaire ne devrait porter aucune atteinte aux droits de cette compagnie. Le Gouvernement Impérial de Russie est prêt à prendre sur lui de s'entendre avec la dite compagnie tout en autorisant le Gouvernement de Chine à user dès à présent du droit de racheter la ligne en question. La prime de rachat qui revient à la compagnie serait cédée au Japon.

Dans une note présentée à la Conférence (Annexes N^{os} I et II), les Plénipotentiaires du Japon ont fait observer que le droit de la construction et de l'exploitation du chemin de fer entre Kharbine et Port Arthur constituait une partie importante du bail de la presqu'île de Liaotong; que c'est une conséquence logique que le chemin de fer devait suivre, dans toutes ses parties et extensions; le sort du bail en vertu duquel il a été construit et est maintenant exploité; que, de plus, le point naturel de division des deux lignes de chemin de fer est le point d'intersection

de ces lignes ; et qu'enfin ; au sujet de l'exercice immédiat, de la part de la Chine, du droit de rachat, les Plénipotentiaires du Japon désirent déclarer que le Gouvernement Impérial du Japon possédera et exploitera la ligne en question, en se conformant aux dispositions de la concession relatives au droit de rachat de Chine et à d'autres conditions de la même manière que le Gouvernement Impérial de Russie possédera et exploitera la ligne Trans-Manchourienne.

Pour répondre à ces observations, les Plénipotentiaires de Russie ont expliqué que l'embranchement Sud-Manchourien ne pouvait être considéré comme une partie du bail de la presqu'île de Liaotong, et que la cession de cet embranchement n'était donc pas une conséquence logique de la cession du bail de la presqu'île de Liaotong. Ils ne pouvaient non plus admettre que Kharbine soit un point naturel de division des deux lignes, la Russie pouvant seulement consentir à céder au Japon le tronçon de la ligne actuellement occupé par les troupes japonaises selon le mode indiqué dans leur note responsive précitée. Ils ont de plus fait remarquer que le point de division devait être une place importante et que l'engagement que la Russie a contracté pour le tronçon du chemin de fer qui resterait en sa possession (Protocole N° III), devait être réciproquement pris par le Japon en ce qui concerne la partie du chemin de fer qui va passer au Japon.

Le Baron Komura a constaté qu'il y avait entre les deux Parties une différence essentielle sur la manière de voir dans cette affaire ; et pour bien éclaircir la position du Japon vis-à-vis de cette question, il l'a expliquée dans le sens suivant :

La construction de cet embranchement fut originairement concédée par l'Article VIII de la convention relative au bail de la presqu'île de Liaotong et par conséquent cet embranchement constitue une partie essentielle et intégrante du bail en question ; au point de vue de fait, le bail de Port Arthur ayant été conclu au mois de mars 1898, un contrat basé sur ce bail a été passé au mois de juin de la même année entre le Gouvernement Chinois et la compagnie du chemin de fer pour la construction et l'exploitation du chemin de fer de l'Est Chinois, ce qui prouve l'existence de rapports étroits entre le bail et le chemin de fer. C'est pour cette raison que le Japon réclame la cession de l'embranchement tout entier, d'autant plus que cet embranchement, ayant été construit dans le seul but de communication avec Port Arthur, perdrait sa raison d'être pour la Russie après la cession du bail de la presqu'île de Liaotong au Japon.

D'ailleurs la cession du chemin de fer étant de la même nature que celle de ce bail, elle devait être faite directement au Japon, avec le consentement du Gouvernement de Chine.

Pour répondre à ce point, les Plénipotentiaires de Russie ont expliqué que le chemin de fer Sud-Manchourien, quoique mentionné dans la convention du 25 avril 1898, concernant le bail de Liaotong, n'avait rien de commun avec ce bail ; que c'étaient deux questions tout à fait différentes et qu'elles devaient par conséquent être

traitées séparément. La question du territoire cédé à bail concernait la Russie et la Chine, tandis que la question du chemin de fer ne pouvait être réglée sans tenir compte en outre des intérêts de la compagnie du chemin de fer. Or, le contrat de cette compagnie stipulait que le seul mode de transmission de ce chemin de fer était le rachat de l'entreprise par la Chine. La Russie ne pouvait donc pas enfreindre les droits de la Chine et ceux de la compagnie en transmettant le chemin de fer directement au Japon comme le proposaient ses Plénipotentiaires. Le Gouvernement de Russie pouvait seulement autoriser la Chine à racheter le chemin de fer avant le terme et à transmettre la prime de rachat au Japon en se chargeant lui-même de satisfaire la compagnie. A la remarque du Baron Komura qu'une telle manière de procéder procurerait au Japon une somme d'argent, et non pas le chemin de fer lui-même et qu'elle rendrait nulle la valeur de la cession, M. Witte a dit que par là, la Russie perdrait, en tout cas, tout rapport avec la partie du chemin de fer à céder et que par conséquent le Japon pourra s'entendre avec la Chine pour le reste de l'affaire. Il a ajouté que la Russie n'aurait aucune objection à ce que la Chine transmît au Japon le chemin de fer en nature et que le même procédé soit adopté en cette affaire que celui convenu pour le cas de la cession du bail de la presqu'île de Liaotong.

Le Baron Komura a ensuite développé la raison pour laquelle le Japon devait réclamer l'embranchement tout entier et en conséquence le point de division des deux lignes devait être Kharbine. Après avoir exposé les raisons politiques pour lesquelles le Japon devait insister sur la cession de l'embranchement tout entier, le Baron Komura a ajouté que le bail en question une fois cédé, il était naturel que l'embranchement tout entier suivît le même sort. En ce qui concerne la question de déterminer le point de division entre les deux lignes de chemin de fer, M. Witte a exposé les considérations suivantes :

Kharbine n'a pas les qualités nécessaires pour en faire une station terminale entre les deux lignes. C'est une localité qui a été choisie, pendant la construction du chemin de fer, pour des considérations purement techniques, comme point commode par sa situation topographique à la construction d'un pont sur le Soungari. Mais l'absence d'un centre de commerce dans cette localité présenterait des difficultés à en faire une station terminale. Une autre considération encore se pose contre le choix de Kharbine comme point de démarcation des deux lignes. Les Armées japonaises ne l'ont pas atteint et il serait juste de ne céder au Japon que ce qui est effectivement occupé par ses troupes. A ce point de vue, la situation d'une place comme Goundjouline par exemple où sont campés les avant-postes japonais et russes serait peut-être le point de démarcation le plus juste.

Le Baron Komura a dit que s'il était absolument impossible pour la Russie de céder la ligne jusqu'à Kharbine, il proposerait, considérant que le point de cette

division doit être une place importante au point de vue géographique et naturel, le point où le chemin de fer passe pour la deuxième fois le Soungari, comme point de division.

M. Witte ayant fait remarquer que ce point de division devait être fixé sur une ville importante et non pas sur un endroit d'une importance géographique, a ajouté qu'il serait disposé à déroger au principe de le fixer sur la limite du campement des avant-postes japonais et à transporter le point de démarcation jusqu'à la première grande ville au nord de Goundjouline, c'est-à-dire à Kouan-Tchen-Tsy (Tchan-Tchoun) grand centre de commerce et station débarquant pour Girin.

Le Baron Komura a répondu que si l'embranchement entre Kouan-Tchen-Tsy et Girin est remis au Japon, il pourra accepter Kouan-Tchen-Tsy comme le point de division. Il croyait, d'ailleurs, savoir que cette ligne entre Kouan-Tchen-Tsy et Girin n'était pas encore construite, au moins, d'une manière permanente.

M. Witte a déclaré que si cet embranchement n'était pas encore construit, d'une manière permanente, il ne voyait pas d'objection à ce qu'il fût laissé aux soins des Japonais. Il a dit que, ignorant l'état actuel à ce sujet, il allait tout de suite s'en renseigner par télégraphe, et que si cet embranchement existe déja, il appartiendra à ceux qui en sont les propriétaires actuels.

Sur ce, les Plénipotentiaires des deux côtés sont convenus que le choix définitif de Kouan-Tchen-Tsy comme le point de division était réservé jusqu'à ce que M. Witte ait été renseigné sur l'existence de l'embranchement entre Kouan-Tchen-Tsy et Girin, et ont reconnu comme définitivement arrêtée la rédaction suivante pour l'Article VII:

"La Russie s'engage à céder au Japon, sans compensation, à condition du consentement du Gouvernement de Chine, la tronçon du chemin de fer entre ..... et Port Arthur et tous ses embranchements, avec tous les droits, priviléges et propriétés qui lui appartiennent dans cette région ainsi que toutes les mines de charbon qui se trouvent dans la même région appartenant au chemin de fer ou en exploitation pour son profit.

"Les deux Hautes Parties Contractantes s'engagent mutuellement à obtenir le consentement du Gouvernement de Chine mentionné dans la stipulation ci-dessus." (Texte anglais, Annexe N° III)

En outre, conformément à ce qui a été convenu lors de la discussion sur l'Article III (voir Protocole N° III), la clause suivante est enregistrée par rapport à l'Article présent, c'est-à-dire l'Article VII:

"Les Plénipotentiaires du Japon et de Russie, dans le but d'éviter toute cause de malentendu à l'avenir, déclarent que la concession de la construction et de l'exploitation du chemin de fer Sud-Manchourien qui passe au Japon n'est pas incompatible avec le principe de la porte ouverte et du traitement égal, et que dans les limites du terrain acquis en vertu de cette concession les sujets de Sa Majesté

l'Empereur de Russie ainsi que les ressortissants d'autres Puissances étrangères jouiront des mêmes droits et priviléges que ceux de Sa Majesté l'Empereur du Japon."

La Conférence a ensuite procédé à la discussion de l'Article VIII concernant le mode d'exploitation par la Russie du chemin de fer Trans-Manchourien.

Le Baron Komura a fait remarquer aux Plénipotentiaires de Russie que les observations qu'ils ont faites dans leur note responsive disant que "la compagnie du chemin de fer se conformera strictement aux termes de l'acte de la concession du 27 Août (8 Septembre) 1896, dont le paragraphe 8 stipule que les troupes ainsi que le matériel de guerre russe qui seraient transportés sur la ligne, ne doivent pas subir d'arrêts sur le territoire chinois" sembleraient indiquer que la signification exacte de la proposition faite par les Plénipotentiaires du Japon n'était pas rendu suffisamment claire aux yeux des Plénipotentiaires de Russie; il lui semblait en effet que le transport des troupes et du matériel de guerre russe sur la ligne traversant le territoire chinois n'était pas conforme au principe de l'usage exclusivement commercial et industriel du chemin de fer.

M. Witte lui a expliqué que ce transport n'était que pour le besoin de déplacement des soldats russes en nombre peu considérable, d'une partie à l'autre du territoire russe en temps de paix, la possession russe des Provinces Maritime et de l'Amour exigeant cette mesure. Il affirmait que le transport par d'autres moyens n'étant pas praticable, cette mesure, soumise à la condition que les troupes et le matériel de guerre russe, transportés par la ligne en question ne soient pas autorisées à s'arrêter dans le territoire chinois, n'était pas incompatible avec le principe de l'usage exclusivement commercial et industriel de ce chemin de fer.

Le Baron Komura lui a dit qu'il ne voulait qu'éclaircir la signification de la proposition des Plénipotentiaires du Japan et cette proposition avait pour but de déterminer l'usage exclusivement commercial et industriel, mais nullement dans un but stratégique, du chemin de fer en Manchourie.

M. Witte a dit qu'il consentait à l'engagement de Russie à ce principe, à condition que le même engagement soit accepté par le Japon concernant le chemin de fer qui sera retenu et exploité par lui en Manchourie.

Le Baron Komura ayant consenti à cette proposition de réciprocité, à condition que l'engagement de la part du Japon ne s'appliquât pas au chemin de fer se trouvant dans le territoire sur lequel s'étend le bail de la presqu'île de Liaotong, l'Article VIII a été arrêté comme suit:

"Le Japon et la Russie s'engagent à retenir et à exploiter leurs lignes de chemin de fer respectives en Manchourie exclusivement dans un but commercial et industriel, mais nullement dans un but stratégique. Il va sans dire que cette restriction ne se rapporte pas aux régions sur lesquelles s'étend le bail de la presqu'île de Liaotong."

(Texte anglais, Annexe N° IV)

La séance a été suspendue de 1 heure à 3 heures de l'après midi. Elle a été terminée à 6 heures 30 du soir.

(Signé) SERGE WITTE. (Signé) JUTARO KOMURA.

(Signé) ROSEN. (Signé) K. TAKAHIRA.

ANNEXE N° I.

(ENGLISH TEXT)

7. The Plenipotentiaries of Japan take note of the acceptance of this Article in principle by the Imperial Russian Government. The right to construct and exploit the railway between Harbin and Port Arthur forms an important part of the lease of the Liao-tung Peninsula. It is a logical consequence that the railway in all its parts and extensions should follow the destiny of the lease under which it was built and is now worked. Besides, the natural point of division of the two lines of railway is the point of intersection of those lines. On the subject of the immediate exercise by China of the right of purchase of the line, the Plenipotentiaries of Japan wish to say that the Imperial Government of Japan will hold and work the line in question subject to the provisions of the concession as to China's right of purchase and other conditions in the same manner as the Imperial Russian Government will hold and work the Trans-Manchurian line.

ANNEXE N° II.

(*Traduction*)

7. Les Plénipotentiaires du Japon prennent acte de l'acceptation en principe de cet Article par le Gouvernement Impérial de Russie. Le droit de la construction et de l'exploitation du chemin de fer entre Harbine et Port Arthur constitue une partie importante du bail de la presqu'île de Liaotong. C'est une conséquence logique que le chemin de fer doit suivre, dans toutes ses parties et extensions, le sort du bail en vertu duquel il a été construit et est maintenant exploité. De plus, le point naturel de division des deux lignes de chemin de fer est le point d'intersection de ces lignes. Au sujet de l'exercice immédiat, de la part de la Chine, du droit de rachat de la ligne, les Plénipotentiaires du Japon désirent déclarer que le Gouvernement Impérial du Japon possédera et exploitera la ligne en question, en se conformant aux dispositions de la concession relatives au droit de rachat de Chine et à d'autres conditions, de la même manière que le Gouvernement Impérial de Russie possdédera et exploitera la ligne Trans-Manchourienne.

ANNEXE N° III.

Article VII. Russia engages to assign and transfer to Japan, without compensation and subject to the consent of the Chinese Government, the portion of railway between ..... and Port Arthur and all its branches together with all rights, privileges and properties which appertain to it in that region, as well as all coal mines in that region belonging to or worked for the benefit of the railway.

The High Contracting Parties mutually engage to obtain the consent of the Chinese Government mentioned in the above stipulation.

ANNEXE N° IV.

Article VIII. Japan and Russia engage to retain and exploit their respective railway lines in Manchuria exclusively for commercial and industrial purposes and in no wise for strategic purposes.

It is a matter of course that this restriction does not relate to the territory affected by the lease of Liao-tung Peninsula.

ANNEXE N° V.

In the morning sitting of August 16th, the Conference has discussed Article VII until 1 o'clock when a recess was taken.

ANNEXE N° VI.

In the afternoon sitting of August 16th, the Conference has discussed Articles VII and VIII.

Article VII has been settled in principle and Article VIII accepted unanimously. The Conference adjourned at 6.30 to 9.30 to-morrow morning.

PROTOCOLE N° VI.

Séance du 17 Août 1905.

La séance est ouverte à 9 heures 45 du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires du Japon ont proposé de procéder à la discussion de l'Article IX, sur le remboursement des frais de guerre, et ont présenté à la Conférence une nouvelle note à ce sujet. (Annexe N° I)

Les Plénipotentiaires de Russie ont répondu qu'ils ne manqueraient pas de présenter leur réponse par écrit à cette note, mais que, ayant déjà exposé leur avis très catégorique sur cette question dans la réponse générale annexée au Protocole N° II, ils ne voyaient pas la nécessité d'un retour sur la discussion du même objet.

Les Plénipotentiaires du Japon leur ont demandé s'ils entendaient refuser d'entrer en discussion sur cette question, même sur les motifs de divergence, et ont exprimé l'avis qu'une délibération de la question litigieuse dans un esprit de conciliation serait peut-être le meilleur mode d'arriver à une entente.

Les Plénipotentiaires de Russie ne se refusaient pas à une délibération amicale afin de préciser les motifs de la divergence, mais ils ne prévoyaient pas la possibilité d'atteindre le but et de concilier les opinions si différentes des deux Parties, à moins qu'on réussisse à trouver un nouveau terrain parfaitement favorable pour la discussion. Un essai dans ce sens a été fait par les Plénipotentiaires de Russie, qui dans leur note responsive avaient attiré l'attention de la Conférence sur le remboursement de certaines dépenses japonaises effectuées dans un but humanitaire, comme base possible des négociations sur ce point délicat. Quant à l'idée de rembourser les frais de guerre proprement dits, elle ne correspondait pas du tout avec la situation réelle de la Russie, qui préférera reprendre les armes que de subir des conditions incompatibles avec sa dignité nationale.

L'argumentation du Baron Komura portait, en substance, sur les idées suivantes:

Il admet que la Russie a encore la force de continuer la guerre, mais le Japon est aussi prêt à la poursuivre, et l'expérience d'un an et demi fait voir clairement

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Il admet que la Russie a encore la force de continuer la guerre, mais le Japon est aussi prêt à la poursuivre, et l'expérience d'un an et demi fait voir clairement

quel en sera l'avenir. Ce dont il s'agit ici est cependant de trouver une solution avant de pousser les choses à l'extrême. Si la Russie envisage l'ensemble des intérêts de son pays, elle jugera avantageux de faire quelques sacrifices pécuniaires pour sauvegarder d'autres intérêts plus graves. Les plus grandes Puissances ont eu des moments où elles ont dû faire des sacrifices dans pareilles circonstances. Les conditions de paix très modérées, proposées par le Japon, ont été élaborées par le Gouvernement exclusivement en vue des résultats de la guerre déjà atteints et comparativement à ces résultats elles sont minimes. L'histoire du passé prouve que si la fortune de la guerre avait favorisé la Russie, elle aurait présenté des conditions bien plus onéreuses. Et si le Japon, malgré sa situation très sûre de pouvoir avantageusement continuer la guerre, a proposé des conditions aussi modestes, c'est qu'il est sincèrement animé des principes humanitaires et d'un désir ardent de conclure la paix dans l'intérêt commun des deux pays et pour le bien-être du monde entier. Pendant que les deux adversaires continuent la lutte des armes, les autres pays se livrent à une concurrence économique et gagnent du terrain, tandis que le Japon et la Russie restent en retard. L'intérêt véritable des deux pays serait de cesser la lutte et de rentrer dans la concurrence économique de l'univers.

M. Witte a exposé les idées suivantes:

La Russie est désireuse de paix, mais elle n'est pas réduite à demander la paix à tout prix; elle continuera la lutte, s'il le faut, et trouvera pour cela les moyens nécessaires plus facilement encore qu'elle n'en trouverait pour acheter une paix humiliante. Il pense que la prudence oblige de ne pas faire des suppositions concernant les résultats de la guerre dans le futur. Les conditions présentées par les Plénipotentiaires du Japon, bien loin d'être modérées et de témoigner des sentiments humanitaires et pacifiques,—prouvent au contraire l'intention du Japon de profiter des circonstances pour arracher à la Russie tout ce qui est possible en escomptant les succès que les Japonais considèrent probables. Si la Russie était dans une situation analogue, elle n'aurait certainement pas songé à exiger le remboursement des frais de guerre, à moins qu'elle ait pris possession de la capitale du pays adversaire. Le Japon se fait fort des faits accomplis et des territoires occupés. Mais, en droit international, il ne suffit pas d'occuper un territoire, il faut encore savoir le garder. M. Witte partage entièrement l'avis du Baron Komura qu'il serait avantageux pour les deux pays de cesser la lutte et de rentrer dans le courant des intérêts économiques de l'univers, mais il ne voit pas de la part des Plénipotentiaires du Japon un désir sincère et réel d'arriver à ce but. Toute la marche des négociations présentes n'a été, de la part de la Russie, qu'une série de concessions dans toutes les question où cela était possible. Mais à présent on était arrivé à un point qui touche à la dignité de la Russie et où il n'y a plus de concession possible.

Le Baron Komura a fait observer que tout ce que M. Witte considérait jusqu'ici

comme des concessions russes n'était en réalité qu'une simple exposition de l'état de choses existant, qui n'exige point d'être reconnu à la rigueur par la Russie et qu'il était indispensable que la Russie reconnût la justesse de cette demande basée sur les succès militaires ininterrompus du Japon, si elle était pénétrée d'un sincère sentiment de conciliation. Il a en outre signalé que M. Witte avait même refusé de reconnaître un fait accompli important.

M. Witte a répondu qu'il reconnaissait le fait de l'occupation de Sakhaline par les forces japonaises, mais qu'il ne reconnaissait pas la valeur juridique de cet acte, tant qu'il n'a pas été sanctionné par un traité.

Après cet échange de vues les Plénipotentiaires des deux Puissances ont constaté qu'ils ne pouvaient tomber d'accord sur l'Article IX et ont décidé de passer aux articles suivants.

La séance a été suspendue à 12 h. 45, pour être reprise à 3 heures.

La séance a été réouverte à 3 heures.

Les Plénipotentiaires de Russie ont remis à la Conférence leur réponse par écrit à la note sur l'Article IX, présentée par les Plénipotentiaires du Japon, dans la séance du matin. (Annexe N° II)

La Conférence a procédé ensuite à la discussion de l'Article X du projet japonais, concernant la demande de remettre au Japon tous les vaisseaux de guerre internés dans les ports neutres.

Dans leur note responsive, les Plénipotentiaires de Russie avaient déjà expliqué qu'une pareille exigence était contraire au droit international et à la dignité de la Russie, et qu'elle ne pouvait par conséquent être acceptée par ses représentants.

A la séance présente, les Plénipotentiaires du Japon ont remis aux Plénipotentiaires de Russie une nouvlle note (Annexes N^{os} III et IV) à l'appui du point de vue japonais.

Ayant pris connaissance de cette note, les Plénipotentiaires de Russie ont déclaré qu'ils ne pouvaient s'associer à cet avis. Le principe du droit international est tel que si un corps d'armée ou un navire cherche asile sur un territoire ou dans un port neutre, ce corps ou navire doit être désarmé, mais pas remis à l'adversaire. S'il n'y avait divergence entre nous que sur cette question—là, elle pouarrait être présentée à un tribunal d'arbitrage et on ne pourrait guère douter du jugement qu'il prononcerait.

Le Baron Komura a répondu qu'en présentant la demande en question, le Japon se basait sur les considérations suivantes:

Quoique la Chine ait déclaré au début de la guerre son intention de conserver une parfaite neutralité, elle n'a jamais eu de force nécessaire pour remplir ses devoirs

quel en sera l'avenir. Ce dont il s'agit ici est cependant de trouver une solution avant de pousser les choses à l'extrême. Si la Russie envisage l'ensemble des intérêts de son pays, elle jugera avantageux de faire quelques sacrifices pécuniaires pour sauvegarder d'autres intérêts plus graves. Les plus grandes Puissances ont eu des moments où elles ont dû faire des sacrifices dans pareilles circonstances. Les conditions de paix très modérées, proposées par le Japon, ont été élaborées par le Gouvernement exclusivement en vue des résultats de la guerre déjà atteints et comparativement à ces résultats elles sont minimes. L'histoire du passé prouve que si la fortune de la guerre avait favorisé la Russie, elle aurait présenté des conditions bien plus onéreuses. Et si le Japon, malgré sa situation très sûre de pouvoir avantageusement continuer la guerre, a proposé des conditions aussi modestes, c'est qu'il est sincèrement animé des principes humanitaires et d'un désir ardent de conclure la paix dans l'intérêt commun des deux pays et pour le bien-être du monde entier. Pendant que les deux adversaires continuent la lutte des armes, les autres pays se livrent à une concurrence économique et gagnent du terrain, tandis que le Japon et la Russie restent en retard. L'intérêt véritable des deux pays serait de cesser la lutte et de rentrer dans la concurrence économique de l'univers.

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Le Baron Komura a fait observer que tout ce que M. Witte considérait jusqu'ici

comme des concessions russes n'était en réalité qu'une simple exposition de l'état de choses existant, qui n'exige point d'être reconnu à la rigueur par la Russie et qu'il était indispensable que la Russie reconnût la justesse de cette demande basée sur les succès militaires ininterrompus du Japon, si elle était pénétrée d'un sincère sentiment de conciliation. Il a en outre signalé que M. Witte avait même refusé de reconnaître un fait accompli important.

M. Witte a répondu qu'il reconnaissait le fait de l'occupation de Sakhaline par les forces japonaises, mais qu'il ne reconnaissait pas la valeur juridique de cet acte, tant qu'il n'a pas été sanctionné par un traité.

Après cet échange de vues les Plénipotentiaires des deux Puissances ont constaté qu'ils ne pouvaient tomber d'accord sur l'Article IX et ont décidé de passer aux articles suivants.

La séance a été suspendue à 12 h. 45, pour être reprise à 3 heures.

La séance a été réouverte à 3 heures.

Les Plénipotentiaires de Russie ont remis à la Conférence leur réponse par écrit à la note sur l'Article IX, présentée par les Plénipotentiaires du Japon, dans la séance du matin. (Annexe N° II)

La Conférence a procédé ensuite à la discussion de l'Article X du projet japonais, concernant la demande de remettre au Japon tous les vaisseaux de guerre internés dans les ports neutres.

Dans leur note responsive, les Plénipotentiaires de Russie avaient déjà expliqué qu'une pareille exigence était contraire au droit international et à la dignité de la Russie, et qu'elle ne pouvait par conséquent être acceptée par ses représentants.

A la séance présente, les Plénipotentiaires du Japon ont remis aux Plénipotentiaires de Russie une nouvlle note (Annexes N^{os} III et IV) à l'appui du point de vue japonais.

Ayant pris connaissance de cette note, les Plénipotentiaires de Russie ont déclaré qu'ils ne pouvaient s'associer à cet avis. Le principe du droit international est tel que si un corps d'armée ou un navire cherche asile sur un territoire ou dans un port neutre, ce corps ou navire doit être désarmé, mais pas remis à l'adversaire. S'il n'y avait divergence entre nous que sur cette question—là, elle pouarrait être présentée à un tribunal d'arbitrage et on ne pourrait guère douter du jugement qu'il prononcerait.

Le Baron Komura a répondu qu'en présentant la demande en question, le Japon se basait sur les considérations suivantes:

Quoique la Chine ait déclaré au début de la guerre son intention de conserver une parfaite neutralité, elle n'a jamais eu de force nécessaire pour remplir ses devoirs

de puissance neutre.

Les navires russes, ayant subi des avaries pendant les combats navals—et l'on n'envisage ici que les vaisseaux internés à la suite des avaries causées par les combats navals—ont cherché l'asile dans des ports chinois, et malgré les règles de la neutralité chinoise exigeant à ces vaisseaux de se désarmer s'ils ne reprennent pas la mer dans 24 heures, n'ont pris aucune décision pendant quelques semaines, et s'ils ont été enfin désarmés, ce n'est ni par leur acte spontané ni par l'autorité chinoise, mais uniquement par la pression des forces navales japonaises. Dans ces circonstances, les forces navales japonaises avaient un droit indiscutable afin de défendre leurs droits de belligérant d'entrer dans les ports de Chine pour les mettre en exécution et s'ils ne l'ont pas fait à Shanghai, c'est uniquement pour ne pas porter préjudice aux intérêts commerciaux des Puissances étrangères, conformément à la déclaration du Japon faite au début de la guerre.

M. Witte a déclaré qu'il a interprété tout autrement le principe du droit international en question et qu'il n'avait jamais entendu dire qu'une escadre belligérante ait le droit d'entrer dans un port neutre et d'y exercer des actes de guerre sur son adversaire. Le seul mode de procéder qui appartenait aux escadres japonaises était, à son avis, d'attendre les vaisseuux russes en pleine mer et de les attaquer à leur sortie des ports neutres. Le fait est tel que les navires sont désarmés et qu'ils restent dans les ports neutres jusqu'à la fin de la guerre. Une fois la guerre finie, il ne peut y avoir aucune question à qui ces navires appartiennent. M. Witte ne pouvait par conséquent changer son avis sur cette question, ni reconnaître l'équité de l'exigence japonaise.

Le Baron Komura a répondu que d'après le principe et les précédents du droit international, dans le cas où un pays neutre ne peut pas s'acquitter de ses devoirs, le belligérant peut exercer lui-même ses droits de belligérant dans le domaine du pays neutre, et que si le Japon s'est abstenu de les exercer durant la guerre, c'est qu'il entendait y donner suite dans les négociations avec la Russie.

La discussion n'ayant pas amené à concilier les opinions des Plénipotentiaires des deux Parties, ils ont décidé de constater cette divergence et de passer à la délibération de l'Article XI.

Le texte de cet Article, dans le premier projet japonais était ainsi conçu: "la Russie s'engage à limiter sa force navale dens les eaux de l'Exrtême Orient."

Dans leur réponse les Plénipotentiaires de Russie ont dit: "la Russie ne saurait consentir à un pareil engagement imposé par une Puissance étrangère, car ce serait incompatible avec sa dignité. Le Gouvernement Impérial se croirait cependant à même de pouvoir déclarer qu'il n'entre pas dans ses vues dans un avenir proche d'entretenir dans les eaux du Pacifique des forces navales considérables."

Tout en confirmant cette réponse, les Plénipotentiaires de Russie ont expliqué

qu'ils n'avaient pas d'objection à ce qu'elle fût enregistrée dans le protocole ou consignée dans quelque autre acte, sans en changer la rédaction. Ils ont même proposé d'en faire l'objet d'une déclaration spéciale qui serait signée par les deux Plénipotentiaires et soumise à la confirmation de l'Empereur de Russie.

Les Plénipotentiaires du Japon ont répondu qu'ils acceptaient en principe ces paroles, mais que le texte de la déclaration projeté leur paraissait trop vague, vu la grande importance de la question pour la sécurité nationale du Japon. Ils insistaient surtout sur la précision des mots "force navale *considérable*," puisque malgré que la Russie eût intérêt à maintenir des escadres suffisamment fortes dans la Baltique et dans la Mer Noire, elle n'a cessé d'envoyer de puissants renforts navals en Extrême Orient dans le but de s'assurer de la suprématie maritime sur le Japon. A quoi, M. Witte a répondu qu'il était très difficile de préciser ce mot, car ce qui est reconnu considérable à une époque, ne l'est pas à une autre et que d'ailleurs les mots ne signifiaient que peu de choses quand les deux Parties sont sincèrement animées du désir d'entretenir de bonnes relations de confiance.

Les Plénipotentiaires du Japon ont attiré l'attention des Plénipotentiaires de Russie sur une autre expression encore dans la déclartion projetée qui ne leur paraissait pas assez précise et qui, à leur avis, demandait à être déterminée, à savoir les mots "dans un avenir proche," en faisant remarquer qu'une rédaction aussi vague ne saurait produire l'effet désiré par eux.

Les Plénipotentiaires de Russie ont répondu qu'ils ne voyaient pas d'autre manière d'exprimer ces idées avec plus de précision; après quoi ils ont proposé de remettre la décision sur l'Article XI à la prochaine séance.

Cette proposition a été acceptée par les Plénipotentiaires du Japon.

La séance a été levée à 6 heures et demie du soir.

(Signé) SERGE WITTE. (Signé) JUTARO KOMURA.

(Signé) ROSEN. (Signé) K. TAKAHIRA.

ANNEXE N° I.

(English text)

9. The Plenipotentiaries of Japan have given their most serious consideration to the observations of the Plenipotentiaries of Russia on the subject of this Article. They are unable to share the conclusions which the Plenipotentiaries of Russia would draw from the admission of the claim of Japan under this head. In such an admission there could exist no inference that Russia was no longer able to continue the struggle. The Plenipotentiaries of Japan have no intention to claim any terms that will be humiliating to Russia as that would not consist with a just sense of the dignity of a great Power, and they believe that the whole civilized world would find, in the admission of the principle of reimbursement in the actual circumstances of the case, nothing more than the recognition of the historical fact that up to this time the arms of Japan have been successful. The claim of Japan contains nothing of an indirect or consequential nature. It is strictly limited to the actual direct expenses of the war and to that extent the Imperial Government of Japan firmly believe that they are justly entitled to reimbursement. The Plenipotentiaries of Japan accordingly do not find it possible to abandon the claim. They are nevertheless prepared to approach the question of the formula to be used as well as the adjustment of the amount to be reimbursed in the spirit of conciliation and accommodation and they feel compelled to earnestly urge the Plenipotentiaries of Russia to reconsider the question in the light of these remarks.

(*Traduction*)

9. Les Plénipotentiaires du Japon ont donné leur plus sérieuse considération aux observations de LL. EE. les Plénipotentiaires de Russie au sujet de cet Article. Ils sont dans l'impossibilité de partager les conclusions que les Plénipotentiaires de Russie voudraient tirer de l'admission de la réclamation du Japon dont il s'agit. Dans une pareille admission, il ne pourrait exister aucune déduction que la Russie ne pût plus continuer la lutte. Les Plénipotentiaires du Japon n'ont aucune intention de réclamer des conditions quelconques qui seraient humiliantes à la Russie ou qui ne seraient pas compatibles avec le sens juste de la dignité d'une grande Puissance, et ils croient que le monde civilisé entier ne trouverait, dans l'admission du principe de remboursement, dans les circonstances réelles du cas présent, que la reconnaissance

du fait historique que jusqu'ici les armes japonaises ont été toujours courronnées de succès. La réclamation du Japon ne contient rien qui soit d'une nature indirecte ou de conséquences. Elle est strictement limitée aux dépenses réelles directes de la guerre et jusqu'à cette limite le Gouvernement Impérial du Japon est fermement convaincu qu'il a le juste titre au remboursement. Les Plénipotentiaires du Japon ne jugent donc pas possible d'abandonner cette réclamation. Ils sont toutefois prêts à traiter la question de forme à adopter ainsi que l'ajustement du montant à rembourser, dans un esprit de conciliation et de convenance, et ils se voient forcés d'insister ardemment pour que les Plénipotentiaires de Russie reconsidérassent la question sous le jour de ces remarques.

ANNEXE N° II.

Les Plénipotentiaires de Russie ont pris en sérieuse considération la note que Leurs Excellences les Plénipotentiaires du Japon ont bien voulu leur remettre relativement à l'article concernant le remboursement au Japon des frais de la guerre. Ils prennent acte avec satisfaction de la déclaration de Messieurs les Plénipotentiaires du Japon qu'en mettant en avant cette demande, il n'entrait en aucune façon dans leur intention de faire à la Russie une proposition incompatible avec la dignité d'une grande Puissance.

Toutefois malgré leur désir le plus sincère d'arriver à une entente qui puisse mettre fin à la guerre, les Plénipotentiaires de Russie se voient obligés de déclarer d'une manière catégorique que la Russie ne saurait signer un traité de paix en vertu duquel elle s'engagerait à rembourser à un adversaire, même favorisé par de grands succès militaires, ses frais de guerre.

Ni l'histoire des relations internationales, ni les principes de l'équité ne sauraient justifier une pareille demande adressée à la Russie qui, bien que n'ayant pas jusqu'ici été favorisée par la fortune des armes, ne se trouve en aucune façon dans la position d'une Puissance vaincue réduite à subir la volonté du vainqueur.

Dans ces conditions la recherche d'une forme à adopter pour couvrir une semblable transaction, aussi bien que l'ajustement du montant qui serait à rembourser, devient inutile.

ANNEXE N° III.

(English text)

10. The Plenipotentiaries of Japan advanced this claim not so much on account of the material advantages likely to accrue to Japan from its acceptance, as from the conviction that it was in accordance with the principles of the law of nations. It is no doubt true that the claim is without the support of exact precedent in international relations, but that circumstance is due to the fact that no cases have arisen in which belligerent ships of war have in the sequel of battle sought asylum in neutral ports and been there interned. If prolonged sanctuary had not been extended to the vessels in question it is probable that the larger part of them would ultimately have fallen into the hands of the Japanese forces. It does not seem to be consistent with the principles of justice that vessels by seeking the hospitality of neutral ports, should be permitted to escape the consequences of battle. There can be no question of national dignity in connection with the fulfilment of international obligations. The claim of the Plenipotentiaries of Japan applies only to vessels that were damaged in battle. In the circumstances of the case the Plenipotentiaries of Japan feel justified in maintaining the claim.

ANNEXE N° IV.

(*Traduction*)

10. Les Plénipotentiaires du Japon ont émis cette réclamation non pas autant à cause des avantages matériels de nature à revenir au Japon de son acceptation, que dans la conviction qu'elle était en conformité des principes du droit des gens. Il est vrai, sans doute, que la réclamation est dénuée d'appui d'un précédent exact dans les relations internationales, mais cette circonstance s'attribue au fait qu'il n'est survenu aucun cas où les vaisseaux de guerre belligérants avaient, à la suite de bataille, cherché l'asile dans des ports neutres et y étaient internés. Si un abri prolongé n'avait pas été accordé aux vaisseaux de guerre en question, il est probable qu'une majeure partie en seraient finalement tombés aux mains des forces Japonaises. Il ne semble pas compatible avec le principe de justice que les vaisseaux, en cherchant l'hospitalité des ports neutres, soient permis de s'échapper aux conséquences de la bataille. Il ne peut y avoir aucune question de la dignité nationale par rapport à l'accomplissement des devoirs internationaux. La réclamation des Plénipotentiaires

du Japon ne s'applique qu'aux vaisseaux qui ont été endommagés dans les batailles. Dans ces circonstances, les Plénipotentiaires du Japon se voient justifiés à maintenir cette réclamation.

ANNEXE N° V.

In the morning sitting of August 17th, the Conference has discussed Article IX. Not being able to arrive at an agreement, the Plenipotentiaries have decided to take note of the divergence of views, and the Conference adjourned to 3 o'clock in the afternoon.

ANNEXE N° VI.

In the afternoon sitting of August 17th, Articles X and XI have been discussed. Regarding Article X, the Plenipotentiaries have shown a divergency of views which has not been settled. Article XI has been reserved for further discussion. The Conference adjourned till to-morrow August 18th.

PROTOCOLE N° VII.

Séance du 18 Août 1905.

La séance est ouverte à 10 h. du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence.

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont décidé de continuer la discussion sur l'Article XI commencée à la séance précédente.

Le Baron Komura a déclaré que les Plénipotentiaires du Japon ont étudié la question de l'Article XI d'une manière très réfléchie, qu'ils ont jugé qu'il serait difficile de trouver une formule de déclaration de nature à satisfaire les deux Parties et qu'ils se preposent de faire à cette occasion une déclaration spéciale.

Cette déclaration a été présentée à la Conférence séance tenante. (Annexes N^{os} I et II)

Bientôt après, les quatre Plénipotentiaires ont eu une conférence privée.

La séance a été reprise à 3 h. et demie de l'après-midi.

Les Plénipotentiaires ont décidé de constater la divergence de vues sur l'Article XI et de procéder à la discussion de l'Article XII, concernant la pêche le long des côtes russes.

Le projet de cet Article proposé par les Plénipotentiaires du Japon était ainsi conçu: "La Russie concédera aux sujets japonais les pleins droits de pêche le long des côtes ainsi que dans les baies, havres, anses et rivières en ses possessions dans les Mers du Japon, d'Okhotsk et de Behring."

Dans leur note responsive les Plénipotentiaires de Russie ont expliqué que la Russie était prête à s'entendre avec le Japon pour cette question, mais que les droits de pêche ne pourraient s'étendre que sur les côtes des mers elles-mêmes, sans toucher aux anses et fleuves, et que les droits déjà existants devraient rester en vigueur.

Les Plénipotentiaires du Japon ayant accédé à cette réserve, le texte de l'Article XII a été définitivement arrêté comme suit:

"La Russie s'engage à s'entendre avec le Japon pour concéder aux sujets japonais des droits de pêche le long des côtes des possessions russes dans les Mers du

Japon, d'Okhotsk et de Behring. Il va sans dire que les droits déjà appartenant dans cette région à des sujets tant russes qu'étrangers, resteront en vigueur."

La séance est terminée à 4 heures et demie de l'après-midi.

(Signé) SERGE WITTE. (Signé) JUTARO KOMURA.

(Signé) ROSEN. (Signé) K. TAKAHIRA.

ANNEXE N° I.

(English text)

The Plenipotentiaries of Japan declare that animated by the sincere desire to bring about a satisfactory adjustment of all the questions on which agreement has not been reached, they will be prepared to withdraw the conditions concerning the limitation of the naval strength and the surrender of interned ships if the Plenipotentiaries of Russia are disposed to consider in a spirit of conciliation the questions of the cession of Saghalien and the reimbursement of the war expenses.

ANNEXE N° II.

(*Traduction*)

Les Plénipotentiaires du Japon déclarent que, animés d'un sincère désir d'apporter un ajustement satisfaisant de toutes les questions sur lesquelles un accord n'a pas été intervenu, ils seront prêts à retirer les conditions concernant la limitation de la force navale et la remise des vaisseaux internés, si les Plénipotentiaires de Russie sont disposés à considérer dans un esprit de conciliation les questions de la cession de Sakhaline et du remboursement des frais de guerre.

ANNEXE N° III.

In the morning sitting of August 18, the Conference has continued the discussion of Article XI which will be resumed at 3 o'clock in the afternoon.

ANNEXE N° IV.

In the afternoon sitting of August 18, not being able to arrive at an agreement on Article XI the Conference has passed to the discussion of the last Article which has been settled unanimously. The next sitting will be held next Tuesday August 22 at 3 o'clock p. m.

PROTOCOLE N° VIII.

Séance du 23 Août 1905.

La séance est ouverte à 2 h. et demie.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont procédé à la signature des Protocoles des séances précédantes.

M. Witte a fait observer que les travaux de cette Conférence ayant abouti à une entente sur la plupart des articles proposés par les Plénipotentiaires du Japon, il restait pourtant quatre points sur lesquels on n'était pas arrivé à tomber d'accord, et il a émis l'idée qu'il serait peut-être utile de rechercher les causes de cette divergence afin de tâcher de les éloigner dans la mesure du possible.

Le Baron Komura a répondu que les Plénipotentiaires du Japon partageaient cet avis, et a déclaré qu'au cours des négociations dans cette Conférence, ils se trouvaient satisfaits d'avoir pleinement démontré la sincérité du désir de leur Gouvernement de mettre fin aux calamités de la guerre, par la modération de leurs conditions de paix, et en outre, par leur empressement de retirer les points 10 et 11 à condition que les questions de la cession de Sakhaline et du remboursement des dépenses de la guerre puissent être ajustées d'une manière satisfaisante. Il a ajouté que, comme un témoignage additionnel de la sincérité de leur Gouvernement ils étaient maintenant prêts à faire encore des concessions et qu'ils soumettaient aux Plénipotentiaires de Russie un plan de concessions mutuelles espérant que ce plan ferait l'objet, de la part des Plénipotentiaires de Russie, de la plus sérieuse considération qu'exige son importance suprême. Il a ensuite remis à M. Witte une note (Annexes N^{os} I et II), en disant que cette note comprend le plan des concessions mutuelles que les Plénipotentiaires du Japon proposent avec l'approbation de leur Gouvernement.

M. Witte a déclaré que les Plénipotentiaires de Russie ont fait de leur part aussi tous les efforts possibles pendant la durée de la Conférence pour arriver à une entente et pour faire cesser cette guerre qui afflige le monde. Ils étaient très reconnaissants aux Plénipotentiaires du Japon de leur nouvelle démarche vers le but pacifique qui anime les deux Parties. M. Witte tenait, cependant, avant d'exprimer

un avis, à se rendre bien compte de la situation et voudrait savoir si les Plénipotentiaires du Japon croyaient possible un arrangement ou combinaison quelconque excluant toute idée de remboursement de frais de guerre, sous quelque forme que ce fût, excepté les frais de l'entretien des prisonniers de guerre.

Le Baron Komura a répondu que le plan présenté par les Plénipotentiaires du Japon était élaboré dans le but de faire tomber toutes les difficultés dans la solution des deux questions importantes, celles de Sakhaline et des dépenses de la guerre. Il pensait que, si cette suggestion était acceptée, elle serait d'un côté un compromis au sujet de la question de Sakhaline, dont la possession est considérée comme essentielle par le Gouvernement du Japon, surtout en vue de l'occupation actuelle de l'Ile et qu'elle était, de l'autre, un compromis sur la question des dépenses de la guerre que les Plénipotentiaires de Russie ne trouvaient pas possible de payer sous le nom du remboursement des dépenses de la guerre. Il a fait remarquer que cette formule écarterait les objections très fortes opposées par les Plénipotentiaires de Russie, qu'elle était en même temps, un mode de restauration de la partie nord de Sakhaline à la Russie et que le Japon devait recevoir un tel montant d'argent que son Gouvernement se voyait justifié à recevoir en consentant à restaurer cette partie de l'Ile. Il a enfin prié les Plénipotentiaires de Russie d'avoir en vue que le retrait de la réclamation du Japon pour le remboursement des dépenses de la guerre n'était possible qu'à la condition que ce compromis fût accepté, comme il est d'ailleurs exposé dans la note.

Avant d'aborder la question de fond, M. Witte a exprimé le désir de connaître l'avis des Plénipotentiaires du Japon sur un autre point, dont il voudrait leur faire part à titre de supposition tout à fait privée et personnelle, et qui pourrait être formulée comme suit : En supposant que la Russie consentît à céder au Japon toute l'Ile de Sakhaline, y aurait-il possibilité pour le Japon de se départir, à cette condition, de toute idée d'un remboursement pécuniaire ?

Le Baron Komura a répondu que si un pareil arrangement était possible, la solution des questions dont il s'agit aurait été comparativement facile, mais qu'il était aussi difficile au Gouvernement Japonais de se passer de sa réclamation du remboursement des dépenses de la guerre, qu'il le lui était de consentir à la restauration de toute Sakhaline. Il a ajouté que ce plan était proposé afin de faire face aux difficultés mi-chemin et que l'idée essentielle était les concessions mutuelles des deux côtés.

M. Witte a fait remarquer qu'il envisageait avec satisfaction les efforts des Plénipotentiaires du Japon d'arriver à une entente, mais que la question pécuniaire rendrait ces efforts infructueux. Il voudrait par conséquent s'assurer si vraiment il n'existait pas de moyen de régler les questions litigieuses, sans aucun remboursement de frais excepté ceux de l'entretien des prisonniers de guerre, et si les Plénipotentiaires

du Japon n'avaient pas quelque autre projet.

Le Baron Komura a répondu que les Plénipotentiaires du Japon ne pouvaient trouver aucun autre plan, et que, dans leur opinion, le plan proposé était très juste et le seul qui convînt à éliminer toutes les difficultés. Il a ajouté que si, toutefois, les Plénipotentiaires de Russie pouvaient suggérer quelque autre plan, les Plénipotentiaires du Japon le considéreraient volontiers.

M. Witte a répondu qu'il lui serait bien difficile de proposer un projet, dans l'état actuel des choses, qu'il croyait nécessaire, au préalable, de rechercher les éléments de quelque combinaison possible et que c'était justement le but auquel visait l'échange de vues présent. Le projet japonais contenait, en substance, la proposition suivante: Le Japon cède à la Russie la partie nord de Sakhaline; la Russie paie en échange une somme d'argent. La Russie pourrait donc accepter cet offre ou non. Si elle l'accepte, elle paie la somme convenue et garde la partie nord de Sakhaline; si elle n'accepte pas, elle garde au contraire l'argent et renonce à la possession de l'Ile. En supposant que la Russie acceptât cette dernière alternative, et en précisant bien nettement que ce n'était pas une proposition formelle de la Russie, mais seulement une déduction logique du projet japonais même, M. Witte a exprimé le désir de savoir quel pourrait être, le cas échéant, l'avis du Gouvernement du Japon, à une pareille combinaison.

Le Baron Komura a fait remarquer que bien que M. Witte considérât une pareille combinaison comme une conséquence logique du compromis en question, il désirerait faire comprendre que le plan proposé par les Plénipotentiaires du Japon était fait avec l'idée de ne pas abandonner la réclamation du remboursement des frais de la guerre, et qu'en conséquence la conclusion de M. Witte, bien qu'elle fût une déduction logique du plan japonais du côté de la forme, était tout à fait contraire à ce plan en substance.

A la question de M. Witte s'il pouvait conclure de tout ce qui s'était passé que toute combinaison excluant entièrement un remboursement des frais de la guerre serait inacceptable au Japon, le Baron Komura a répondu affirmativement et a expliqué que toute combinaison autre que celle sous la forme proposée était inacceptable. Il a ensuite fait remarquer qu'en formulant ce plan, les Plénipotentiaires du Japon avaient en vue une chose beaucoup plus importante: c'était que, si, ce plan était accepté, il aurait le résultat de ne laisser exister aucune cause d'irritation des deux côtés, car, l'idée essentielle en étant les concessions mutuelles, celles-ci étaient la conséquence d'une action spontanée de chaque côté et non pas celle d'une contrainte. Il a de plus exprimé, en vue de ces considérations, un ardent espoir des Plénipotentiaires du Japon que les Plénipotentiaires de Russie pourront trouver un moyen de prendre en due considération ce plan de compromis et qu'il pourra savoir, puisque M. Witte avait déclaré de n'avoir aucun formule ou plan comme un mode de solution,

approuvé par le Gouvernement Russe, si ce plan de compromis indiqué plus haut serait ou non acceptable à ce Gouvernement.

A quoi M. Witte a répondu qu'après les explications du Baron Komura il était tout à fait évident que le projet japonais contenait en substance une demande de remboursement de frais de guerre sous une nouvelle forme et que tout autre projet sans cette clause serait inacceptable pour le Japon. Et, comme la Russie, de sa part, ne pourrait consentir à un remboursement autre que pour l'entretien des prisonniers de guerre, M. Witte a déclaré qu'il n'y avait aucune probabilité que le plan en question fût accepté par la Russie.

Ayant reconnu que les positions des deux Gouvernements sur les questions en litige étaient suffisamment éclaircies par les discussions précitées, les Plénipotentiaires ont décidé de lever la séance et de se rassembler à une séance finale le samedi 26 Août.

Après avoir élaboré une communication à la presse (Annexe N° III), la séance est terminée à 3 h. et demie.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

ANNEXE N° I.

1. The Island of Saghalien to be divided into two parts, the territory lying north of the 50th degree, North Latitude, to be restored to Russia and the territory lying to the south of that parallel to belong to Japan.

2. Japan and Russia to engage respectively not to take any measures which may impede the free navigation of the La Perouse and Tartary Straits.

3. Russia to pay to Japan Yen 1,200,000,000, as compensation for the restoration of the portion of Saghalien Island to the north of the 50th parallel, North Latitude.

4. Upon the conclusion of an arrangement in the above sense, Japan to withdraw her demand concerning reimbursement of war expenses, but such withdrawal is not to apply to the expenses incurred by Japan for the care and maintenance of Russian prisoners of war.

ANNEXE N° II.

(*Traduction*)

1. L'Ile de Sakhaline sera divisée en deux parties; le territoire situé au nord du 50e degré de latitude nord sera restauré à la Russie et le territoire situé au sud de ce parallèle appartiendra au Japon.

2. Le Japon et la Russie s'engagent respectivement à ne pas prendre des mesures qui pourront empêcher la libre navigation des Détroits de Lapérouse et de Tartarie.

3. La Russie payera au Japon la somme de 1,200,000,000 Yen, à titre de compensation de la restauration de la partie de l'Ile de Sakhaline, située au nord du 50e parallèle de latitude nord.

4. Lorsqu'un arrangement sera conclu dans le sens ci-dessus, le Japon retirera sa demande relative au remboursement des dépenses de guerre, mais ce retrait ne s'étendra pas aux dépenses supportées par le Japon pour les soins et entretiens des prisonniers de guerre russes.

ANNEXE N° III.

In the sitting of August 22nd, the Conference has proceeded to the examination and signature of the preceding sittings. It has been decided that the next sitting will be held next Saturday August 26th.

PROTOCOLE N° IX.

Séance du 26 Août 1905.

La séance est ouverte à 4 h. 30 du soir.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont procédé à la signature du Protocole de la séance précédente.

Ils ont décidé ensuite de se rassembler le lundi 28 Août et ont arrêté la communication suivante à la presse:

"Dans la séance du 26 Août, la Conférence a procédé à la signature du Protocole de la séance précédente. La prochaine séance aura lieu le lundi 28 Août à 3 h. de l'après-midi."

La séance est levée à 4 heures 40.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

PROTOCOLE N° X.

Séance du 29 Août 1905.

La séance est ouverte à 10 heures 55 du matin.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Sato, Adatci et Otchiai, Secrétaires de la Conférence;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Plançon, Korostovetz et Nabokoff, Secrétaires de la Conférence.

Les Plénipotentiaires ont procédé à la signature du Protocole de la séance précédente.

Sur la demande du Baron Komura de savoir la réponse officielle du Gouvernement Russe au projet présenté par les Plénipotentiaires du Japon à la séance du 23 Août (Protocole N° VIII), les Plénipotentiaires de Russie lui ont transmis une notice qui exprimait le consentement de Sa Majesté l'Empereur de Russie à céder au Japon aux conditions exposées dans la notice la partie sud de Sakhaline (Annexe N° I).

Ayant pris connaissance de ce document les Plénipotentiaires du Japon ont déclaré qu'ils avaient une communication spéciale à faire à ce sujet, conformément aux instructions de leur Gouvernement, et ont présenté une notice (Annexes N^{os} II et III) portant que le Gouvernement du Japon est disposé à retirer sa réclamation de remboursement, "pourvu que la Russie reconnaisse comme un fait accompli l'occupation de l'Ile de Sakhaline par le Japon."

Les Plénipotentiaires de Russie ont répondu qu'ils ne pouvaient consentir à la rédaction de cette dernière réserve vu l'ordre catégorique de S. M. l'Empereur, leur Auguste Maître, contenu dans la notice qu'ils viennent de présenter à la Conférence.

Alors le Baron Komura a déclaré que le Gouvernement du Japon, animé d'un sincère désir de rétablir la paix, consentait à laisser en la possession de le Russie la partie nord de Sakhaline, sans aucun remboursement, mais à condition que la frontière entre les deux parties de l'Ile suive le 50^e degré de latitude nord et que la réserve sur les mesures militaires, contenue dans la notice russe, ainsi que l'engagement de garantir la liberté de navigation dans les Détroits de Lapérouse et de Tartarie, fussent réciproques.

M. Witte, prenant acte du consentement susmentionné du Japon, a répondu que

la Russie n'avait pris jusqu'à présent et ne comptait prendre à l'avenir aucune mesure militaire sur le territoire ou sur les côtes de Sakhaline, de sorte qu'il n'y avait, à son avis, aucune raison pour entretenir des doutes à ce sujet, mais qu'il n'avait pas d'objections à donner à l'engagement en question une valeur réciproque conformément à l'avis du Baron Komura. En ce qui concerne la ligne frontière entre les deux parties de l'Ile, les Plénipotentiaires de Russie n'avaient pas d'objection, en principe, à ce que cette ligne suivît le 50e degré, mais ils estimaient qu'une délimitation plus détaillée et plus conforme à la configuration du pays devait être faite sur les lieux par une commission spéciale.

Les Plénipotentiaires du Japon ont répondu qu'ils partageaient cet avis, et la question fut réglée. Il y avait une autre question encore, se rapportant à Sakhaline, que les Plénipotentiaires du Japon ont cru devoir soumettre à la Conférence. C'était la question des colonies pénitentiaires russes dont le voisinage a toujours causé beaucoup d'embarras au Gouvernement Japonais, même quand elles étaient séparées de l'Ile de Hokkaïdo par un détroit. Les Plénipotentiaires du Japon espéraient que le Gouvernement de Russie voudra bien tenir compte de cette considération et ne pas maintenir des colonies pénitentiaires dans la partie nord de Sakhaline.

M. Witte a répondu que cette question n'était pas de sa compétence, qu'elle relevait du domaine de l'Intérieur et qu'il ne pouvait prendre sur lui aucun engagement à ce sujet. Il croyait cependant pouvoir affirmer que si le Gouvernement de Russie trouve nécessaire de maintenir à Sakhaline des colonies pénitentiaires, il ne manquera pas de prendre en même temps toutes les mesures pour que ces colonies ne puissent devenir une source de désagrément pour les voisins.

La question de Sakhaline étant reconnue suffisamment élucidée, les Plénipotentiaires ont laissé aux soins des Secrétaires de préparer la rédaction de l'Article V.

M. Witte a ensuite suggéré l'idée que la Conférence ayant décidé toutes les grandes questions de principe et étant arrivée aux questions secondaires et de détail, il serait opportun d'inviter les délégués à prendre part aux travaux de la Conférence. Il tenait à inviter pour la séance de l'après-midi M. M. de Martens, Chipoff, Pokotiloff et Yermoloff.

Les Plénipotentiaires du Japon ont répondu qu'ils n'avaient aucune objection à l'invitation des délégués susnommés à la Conférence et qu'ils se réservaient de profiter du même droit quand ils le trouveront nécessaire. Le Baron Komura a ajouté qu'il se proposait au préalable de soumettre à la Conférence quelques questions de principe qui devraient, à son avis, être réglées par les Plénipotentiaires séance tenante.

Ces questions concernaient:

1°—Le mode d'évacuation de la Manchourie.

2°—La détermination du point de démarcation entre les lignes de chemins de fer

respectifs en Manchourie.

3°—La protection de la ligne du chemin de fer.

Concernant le premier point il avait été stipulé dans l'Article II (Protocole N° III) que l'évacuation de la Manchourie se ferait conformément aux dispositions d'un article additionnel. En vue de cette stipulation le Baron Komura a proposé à la Conférence un plan spécial élaboré par le Gouvernement du Japon (Annexes N^{os} IV et V) et a prié les Plénipotentiaires de Russie d'examiner ce plan et de donner leur avis à ce sujet—ou bien de suggérer quelque autre projet.

M. Witte a répondu qu'il ne pouvait former de projets concernant l'évacuation, que c'était une question spéciale, qui dépendait en grande partie de la capacité de transport du chemin de fer et des conditions locales et qu'il ne pouvait ici que tracer les bases principales d'un arrangement. Ces bases peuvent être formulées comme suit: 1.—l'évacuation doit se produire de manière à ce que la quantité de troupes japonaises et russes qui restent en Manchourie à chaque époque, soit à peu près égale; 2.—les troupes doivent être retirées d'abord des positions frontales; 3.—ces principes doivent servir de base à une convention concernant le mode et les périodes d'évacuation qui doit être conclue par les Commandants en chef.

Le Baron Komura a dit qu'il n'avait aucune objection à ne mentionner dans le traité que les principales bases de l'arrangement en question, et a demandé de proposer un projet, à quoi M. Witte a acquiescé.

La seconde question soulevée par le Baron Komura était celle du point de démarcation entre les lignes du chemin de fer respectives, dont il s'agit dans l'Article VII. Cette question avait été ajournée jusqu'à la réception d'informations précises sur l'existence d'un embranchement de chemin de fer entre Kouan-Tchen-Tsy et Girin (Protocole N° V). La réponse ayant été reçue et portant que l'embranchement en question n'existait pas encore, les Plénipotentiaires de Russie ont consenti à déclarer que, vu cet état de choses, ils n'avaient pas d'objection à ce que les Japonais construisent un embranchement partant de Kouan-Tchen-Tsy ou de toute autre station qui sera en leur possession jusqu'à Girin. Il a été décidé ensuite que la ville de Kouan-Tchen-Tsy servirait de point de démarcation entre les lignes respectives et que l'Article VII devrait être complété en conséquence.

La troisième question concernait la protection du chemin de fer manchourien. Dans une notice présentée à la Conférence (Annexes N^{os} VI et VII), les Plénipotentiaires du Japon ont proposé de conclure un arrangement spécial en forme de protocole annexé au traité de paix dans lequel il serait stipulé que les deux Gouvernements se réservaient le droit de maintenir des gardes du chemin de fer en nombre n'excédant pas cinq hommes par kilomètre.

M. Witte a fait observer qu'il serait difficile à présent de déterminer le nombre des gardes nécessaires; ce nombre devrait être plus considérable au début, tant que

l'on n'est pas sûr de l'attitude de la population chinoise; il pourrait être diminué ensuite à mesure que l'ordre normal s'établirait en Manchourie. Il serait donc plus pratique de dire que les deux Gouvernements se réservaient le droit de maintenir en Manchourie des gardes de chemin de fer dont le nombre sera fixé de commun accord en conformité de l'extension de la voie.

Le Baron Komura était du même avis en principe, mais il estimait nécessaire de faire un arrangement définitif à ce sujet.

Vu la phase dans laquelle les négociations venaient d'entrer, M. Witte a émis l'avis qu'il serait opportun de prendre des mesures afin de faire cesser immédiatement les hostilités. Il a proposé de télégraphier aux Gouvernements respectifs en les priant de donner les orders nécessaires aux Commandants en chef pour les autoriser à déclarer une suspension d'armes et à s'entendre pour établir un armistice.

Le Baron Komura a dit qu'il demanderait par télégraphe des instructions de son Gouvernement à ce sujet et que jusqu'à la réception d'une réponse il ne pouvait donner d'avis d'une manière précise.

La séance a été levée à midi et demi.

La séance est réouverte à 3 heures.

Etaient présents outre les personnes mentionnées en tête du Protocole, M. M. de Martens, Chipoff, Pokotiloff et Yermoloff.

Le Baron Komura a attiré l'attention de la Conférence sur l'opportunité de régler les questions ci-dessous et a présenté pour chacune de ces questions une notice en langue anglaise avec traduction française:

1. Echange des prisonniers de guerre (Annexes N^{os} VIII et IX).
2. Relations de commerce entre les deux Puissances (Annexes N^{os} X et XI).
3. Arrangement pour les services de raccordement des chemins de fer japonais et russes en Manchourie (Annexes N^{os} XII et XIII).
4. Echange des ratifications du Traité de Paix (Annexes N^{os} XIV et XV).

Avant d'aborder ces questions, les Plénipotentiaires ont échangé des vues sur la forme et la substance du Traité de Paix qui allait être conclu. Il a été décidé, afin de terminer cette œuvre dans le plus bref délai, 1.—que le traité serait non pas préliminaire, mais définitif, 2.—qu'il contiendrait toutes les dispositions nécessaires qui pourront être réglées à cette Conférence, et en laissant seulement les questions de détail ou ayant un caractère local, ne permettant pas un règlement immédiat, aux soins de Commissions spéciales qui auraient à se conformer dans leur travail aux principes arrêtés dans le Traité de Paix.

Procédant à l'examen de la première question soulevée par le Baron Komura sur l'échange des prisonniers de guerre (Annexes N^{os} VIII et IX) M. Witte a fait observer

que, sauf la rédaction française, il n'avait pas d'objection en principe au texte de l'article proposé à ce sujet par les Plénipotentiaires du Japon, mais comme il pourrait se faire que le calcul des dépenses réelles et directes effectuées par le Japon, la composition des comptes ainsi que l'examen eventuel par les autorités russes de ces documents exigent un certain laps de temps, il pense qu'il serait impossible de fixer dans l'article même la date exacte à laquelle devraient être payés les comptes des dépenses. M. Witte a ajouté qu'aussitôt que ces tavaux seraient terminés, le Gouvernement Russe procéderait au versement de la somme établie, dans un délai de quelques jours. Le Baron Komura consentant à dire dans l'article que ces comptes "seront payés dans le plus bref délai," cette rédaction a été adoptée par la Conférence.

Concernant la deuxième question relative à l'établissement des relations de commerce entre les deux Puissances (Annexes N^{os} X et XI), les Plénipotentiaires du Japon ont exprimé dans leur notice que les traités de commerce entre le Japon et la Russie ayant été annulés par la guerre, il serait nécessaire d'insérer dans le Traité de Paix un article spécial stipulant que les Puissances adopteront comme base de leurs relations commerciales jusqu'à la conclusion d'un nouveau traité, le système du traitement réciproque sur le pied de la nation la plus favorisée.

M. Witte a fait remarquer qu'il croyait que la guerre une fois terminée, tous les traités et conventions qui étaient en vigueur avant la guerre reprenaient leur force, la guerre suspendant seulement leur force exécutoire, mais qu'il voudrait s'assurer de l'opinion de M. de Martens.

M. de Martens a expliqué qu'il est d'usage d'insérer dans le traité de paix un article spécial portant que les traités qui existaient avant la guerre rentreraient de nouveau en vigueur.

Le Baron Komura a fait observer que l'usage même d'insérer un tel article prouve qu'on ne considérait pas comme un principe du droit international la remise en vigueur des traités par le fait même de la conclusion de la paix. Il prouverait au contraire le principe de l'annulation et non pas de la suspension de la force des traités par le fait de la guerre. Dans le cas présent, il y aurait deux moyens; soit faire revivre par un article spécial le traité qui était en vigueur avant la guerre, soit conclure un nouveau traité. Mais, estimant qu'il était plus avantageux pour les relations commerciales entre les deux pays de conclure un nouveau traité, il proposait de stipuler dans le Traité de Paix que, jusqu'à la conclusion d'un nouveau traité les deux Puissances adopteront la règle ci-dessus indiquée.

M. Witte a répondu qu'il n'avait aucune objection à l'élaboration d'un nouveau traité, au lieu de faire revivre l'ancien, mais qu'au point de vue pratique il serait préférable pour les deux Parties de dire simplement que les traités qui existaient avant la guerre entreront de nouveau en vigueur et continueront à être exécutoires

jusqu'à la conclusion d'un nouveau traité.

Le Baron Komura a dit qu'il était préférable de conclure un nouveau traité, en stipulant le traitement des relations commerciales jusqu'à cette conclusion suivant la manière proposée par lui, parce qu'il y avait quelques détails dans l'ancien traité, qui ne pourraient peut-être pas remis en vigueur au point de vue des intérêts commerciaux des deux pays. Il a ajouté qu'un nouvean traité à conclure ne différerait pas sensiblement, en principe, de l'ancien traité et que telle était d'ailleurs l'intention du Gouvernement Japonais. M. Witte a répondu qu'il consentirait à la proposition du Baron Komura, mais qu'il croyait nécessaire qu'on dît clairement dans l'article que le nouveau traité à conclure aura comme base l'ancien Traité de 1895. Le Baron Komura ayant consenti à l'insertion de cette pensée dans l'article, la question a été réglée.

M. Witte a cependant fait remarquer que le dernier passage de l'article proposé, sur la nomination d'un consul à Vladivostock devrait être traité à part et ne pas figurer dans le Traité de Paix. Il a ajouté que le consentement à cette proposition serait une concession unilatérale de la part de la Russie, et que par conséquent, pour y consentir, il lui faudrait probablement demander la nomination de consuls russes dans un port analogue japonais. Le Baron Komura a fait remarquer que cette question avait été l'objet de discussions prolongées entre les deux Puissances antérieurement à la guerre et que par conséquent il voulait la résoudre à cette occasion, mais qu'il n'avait aucune objection à ce qu'elle fût renvoyée à l'époque de la négociation du traité de commerce. Les Plénipotentiaires ont décidé d'adopter cet avis.

Concernant la troisième question, sur l'arrangement des services de raccordement des chemins de fer japonais et russes en Manchourie (Annexes N^{os} XII et XIII) les Plénipotentiaires de Russie ont accepté le projet d'article proposé par les Plénipotentiaires du Japon.

Passant à la quatrième question sur l'échange des ratifications du Traité (Annexes N^{os} XIV et XV), les Plénipotentiaires des deux Parties, après avoir échangé leurs opinions à ce sujet, ont décidé dans le but d'accélérer cette affaire d'adopter le mode suivant: lorsque le Traité sera conclu et signé, les Plénipotentiaires le présenteront à leurs Gouvernements respectifs. Aussitôt qu'il aura obtenu la ratification Impériale, le Gouvernement du Japon en fera part par télégraphe à l'Ambassadeur des Etats Unis d'Amérique à Saint Pétersbourg, et le Gouvernement de Russie au Ministre de France à Tokio pour qu'ils en saisissent les deux Gouvernements et que ces annonces tiendraient lieu de l'échange des ratifications en règle.

Toutes les questions de fond étant ainsi réglées, les Plénipotentiaires ont décidé de confier la rédaction du Traité de Paix à M. Denison, assisté de M. M. Adatci et Otchiai et à M. M. de Martens et Pokotiloff, assistés de M. de Plançon.

Après avoir élaboré une communication à la presse (Annexe N° XVI), la séance est levée à 5 heures du soir.

(Signé) SERGE WITTE. (Signé) JUTARO KOMURA.

(Signé) ROSEN. (Signé) K. TAKAHIRA.

ANNEXE N° I.

La notice présentée par les Plénipotentiaires du Japon à la séance du 23 Août et formulant en quatre points la proposition de restaurer à la Russie la partie nord de Sakhaline moyennant une somme de 1,200,000,000 iens, a fait l'objet de la plus sérieuse considération de la part du Gouvernement Impérial de Russie.

En réponse à cette notice, les Plénipotentiaires de Russie ont l'honneur d'informer les Plénipotentiaires du Japon que le versement de toute somme, exceptée celle pour l'entretien des prisonniers de guerre, étant contraire à l'une des principales bases exposées par la Russie lors de l'ouverture des négociations, le Gouvernement Impérial de Russie se voit dans l'impossibilité de consentir à la proposition précitée.

Les Plénipotentiaires de Russie ont également présenté à la Conférence des raisons très sérieuses pour démontrer l'importance pour la Russie de la possession de toute l'Ile de Sakhaline.

Toutefois Sa Majesté l'Empereur, afin de donner un nouveau témoignage de Son sincère désir de contribuer au rétablissement de la paix en Extrême Orient, consent à céder au Japon la partie sud de l'Ile de Sakhaline, à condition que la partie nord reste en la possession de la Russie, sans aucune compensation pécuniaire. Il est bien entendu que le Japon devra dans ce cas garantir la liberté de navigation dans le Détroit de Lapérouse et s'engager à ne prendre aucune mesure militaire dans la partie de Sakhaline occupée par lui.

En présentant ce projet à la considération des Plénipotentiaires du Japon, les Plénipotentiaires de Russie ont l'honneur de déclarer sur l'ordre de leur Auguste Maître, que ce projet forme la dernière concession que la Russie puisse faire dans le but unique d'arriver à une entente.

ANNEXE N° II.

The Japanese Government sincerely believe that they are justly entitled to claim reimbursement of the expenses of the war, but taking note of the absolute refusal of the Russian Government to entertain such a claim, and considering the consequences that would inevitably ensue if they should persist in their demand, have, for the sake of humanity and civilization and in recognition of the true interest of Japan and Russia, authorized the Plenipotentiaries of Japan to offer to withdraw the claim to

such reimbursement, provided Russia recognizes as a fait accompli the occupation of the Island of Saghalien by Japan.

ANNEXE N° III.

(*Traduction*)

Le Gouvernement Japonais croit sincèrement qu'il a des justes titres de réclamer le remboursement des dépenses de la guerre, mais constatant le refus absolu du Gouvernement Russe de traiter cette réclamation et considérant les conséquences qui résulteraient inévitablement s'il persistait dans sa demande, il a, pour la cause de l'humanité et de la civilisation et en reconnaissance des vrais intérêts du Japon et de la Russie, autorisé les Plénipotentiaires du Japon à offrir de retirer la réclamation de ce remboursement, pourvu que la Russie reconnaisse comme un fait accompli l'occupation de l'Ile de Sakhaline par le Japon.

ANNEXE N° IV.

The undersigned, Plenipotentiaries of His Majesty the Emperor of Japan and His Majesty the Emperor of Russia, in execution of the provisions of Article II of the Treaty of Peace signed this day, have agreed upon the following additional Article:

Japan and Russia mutually engage completely and simultaneously to withdraw their military forces from Manchuria and its neighbourhood in three periods as follows:

1st *Period.*—The withdrawals shall begin within ten days after the ratification of the Treaty of Peace and be completed within four months.—

The Japanese forces in Manchuria, are to be withdrawn within a line connecting Hsin-min-tin; Moukden; Fu-shun; Hseng-king; Hwai-jen and Chho-san, and the Japanese forces on the Russo-Corean frontier, are to be withdrawn to the right bank of the River Tumen. The Russian forces in Manchuria, are to be withdrawn within a line connecting Petuna; Tao-lai-chao; Shan-ho-tun; Omoso, and Hunchun;

and the Russian forces on the Russo-Corean frontier are to be withdrawn to the left bank of the River Tumen.

2nd Period.—The withdrawals shall be completed within four months from the expiration of the 1st period.

The Japanese forces are to be withdrawn within a line connecting Niu-cha-tun; Ta-shih-kiao; Hsiu-yen; Feng-Hwang-cheng and the mouth of the Anping River (Anping ho).

The Russian forces are to be withdrawn within a line connecting Hu-lar-chi; Tsi-tsi-har; Merguen and Aihun.

3rd Period.—The withdrawals shall be completed within two months from the expiration of the 2nd period.

The Japanese forces are to be withdrawn within the leased territory of Liao-tung and the frontiers of Corea.

The Russian forces are to be withdrawn within Russian territory.

The foregoing additional Article shall be considered as ratified with the ratification of the Treaty of Peace.

ANNEXE N° V.

(*Traduction*)

Les soussignés, Plénipotentiaires de Sa Majesté l'Empereur du Japon et Plénipotentiaires de Sa Majesté l'Empereur de Russie, en exécution des dispositions de l'Article II du Traité de Paix, signé ce jour-ci, sont convenus des Articles additionnels suivants:

Le Japon et la Russie s'engagent mutuellement à retirer complètement et simultanément leurs forces militaires de la Mancourie et de son voisinage en trois périodes comme suit:

1ère période.—Les évacuations commenceront dans dix jours après l'échange des ratifications du Traité de Paix et seront achevées dans quatre mois.—

Les forces japonaises en Manchourie sont à se retirer dans les limites de la ligne qui joint Hsin-min-tin, Moukden, Fushun, Hseng-king, Hwai-jen et Chhosan, et les forces japonaises à la frontière russo-coréenne sont à se retirer à la rive droite de la rivière de Toumen.

Les forces russes en Manchourie sont à se retirer dans les limites de la ligne qui joint Petuna, Tao-lai-chao, Shan-ho-tun, Omoso et

Hunchun, et les forces russes à la frontière russo-coréenne sont à se retirer à la rive gauche de la rivière de Toumen.

2me période.—Les évacuations seront achevées dans quatre mois suivant l'expiration de la 1ère période.—

Les forces japonaises sont à se retirer dans les limites de la ligne qui joint Niu-cha-tun, Ta-shih-kiao, Hsiuyen, Feng-hwang-cheng et la bouche de la rivière d'Anping (Anping-ho).

Les forces russes sont à se retirer dans les limites de la ligne qui joint Hu-lar-chi, Tsi-tsi-har, Merguen et Aihun.

3me période.—Les évacuations seront achevées dans deux mois suivant l'expiration de la 2me période.

Les forces japonaises sont à se retirer dans les limites du territoire de Liaotong cédé à bail et de la frontière de Corée.

Les forces russes sont à se retirer dans les limites du territoire russe.

L'Article additionnel ci-dessus sera considéré comme ratifié par la ratification du Traité de Paix.

ANNEXE N° VI.

The Plenipotentiaries of Japan propose with a view to make provision for the due protection of the Japanese and Russian railways in Manchuria, and at the same time in order to avoid giving grounds for misunderstanding, that an arrangement to the following effect be concluded by means of a protocol to be annexed to the Treaty of Peace:

Until such time as China is able and ready to assume and fulfill the duty, the Imperial Governments of Japan and Russia reserve to themselves the right to maintain railway guards for the due protection of their respective Manchurian railway lines, properties and traffic. The two Governments, however, reciprocally engage that the guards to be so maintained, shall not in any case exceed five persons to each kilomètre of railway.

ANNEXE N° VII.

(*Traduction*)

Les Plénipotentiaires du Japon, ayant en vue de faire une disposition pour la protection voulue des chemins de fer japonais et russe en Manchourie, et afin d'éviter en même temps, toute cause de malentendu, proposent qu'un arrangement à l'effet suivant soit conclu au moyen d'un protocole qui sera annexé au Traité de Paix :

Jusqu'à ceque la Chine soit capable et prête à assumer et à exécuter son devoir, les Gouvernements Impériaux du Japon et de Russie se réservent le droit de maintenir les gardes du chemin de fer pour la protection voulue de leurs chemins de fer manchouriens, propriétés et trafics respectifs. Les deux Gouvernements, toutefois, s'engagent réciproquement que les gardes qui seraient ainsi à maintenir, n'excéderont en aucun cas cinq hommes par chaque kilomètre du chemin de fer.

ANNEXE N° VIII.

As soon as possible after the exchange of the ratifications of this Treaty, all prisoners of war shall be reciprocally restored. The Imperial Governments of Japan and Russia shall each appoint a special commissioner to take charge of prisoners. All prisoners in the hands of one Government, shall be delivered to and received by the special commissioner of the other Government, in such convenient numbers and at such convenient port or ports of the delivering State as such delivering State shall notify in advance to the special commissioner of the receiving State. The Governments of Japan and Russia shall present to each other within ..... days after the delivery of prisoners has been completed, a statement of the expenditures respectively incurred by them for the care and maintenance of prisoners from the date of capture or surrender up to the time of death or delivery. Russia engages to repay to Japan within ..... days after the exchange of the statements as above provided, the difference between the actual amount so expended by Japan and the actual amount similary disbursed by Russia.

ANNEXE N° IX.

(*Traduction*)

Aussitôt que possible après l'échange des ratifications de ce Traité, tous les prisonniers de guerre seront réciproquement restitués. Les Gouvernements Imrériaux du Japon et de Russie nommeront, chacun de son côté, un commissaire spécial qui se chargera des prisonniers. Tous les prisonniers se trouvant dans les mains d'un Gouvernement, seront remis au commissaire de l'autre Gouvernement ou à son représentant dûment autorisé qui les recevra en tels nombres convenables et à tel ou tels ports convenables de l'Etat qui les remettra, que cet Etat notifiera d'avance au commissaire spécial de l'Etat qui les recevra. Les Gouvernements du Japon et de Russie présenteront l'un à l'autre, dans ..... jours après que la remise des prisoniers aura été achevée, un compte rendu des dépenses faites respectivement par eux pour le soin et l'entretien des prisonniers depuis la date de la capture ou de la reddition jusqu'à celle de la mort ou de la remise. La Russie s'engage à rembourser au Japon, dans ..... jours après l'échange des comptes rendus comme il est stipulé ci-dessus, la différence entre le montant réel ainsi dépensé par la Japon et le montant réel également déboursé par la Russie.

ANNEXE N° X.

All Treaties of Commerce between Japan and Russia having been annulled by the war, the Imperial Governments of Japan and Russia engage to adopt as the basis of their commercial relations, pending the conclusion of a Treaty of Commerce and Navigation, the system of reciprocal treatment on the footing of the most favoured nation in which are included import and export duties, customs formalities, and transit and tonnage dues and the admission and treatment of the agents, subjects and vessels of one country in the territories of the other. The Imperial Russian Government agree to the appointment of a regular Japanese Consul to reside at Vladivostock.

ANNEXE N° XI.

(*Traduction*)

Tous les traités de commerce entre le Japon et la Russie ayant été annulés par la guerre, les Gouvernements Impériaux du Japon et de Russie s'engagent à adopter comme base de leurs relations commerciales, pendant la conclusion d'un traité de commerce et de navigation, le système du traitement réciproque sur le pied de la nation la plus favorisée, y compris les tarifs d'importation et d'exportation, les formalités de douane, les droits de transit et de tonnage et l'admission et le traitement des agents, des sujets et des vaisseaux d'un pay dans le territoire de l'autre. Le Gouvernement Impérial de Russie consent à la nomination d'un consul régulier japonais qui réside à Vladivostock.

ANNEXE N° XII.

The Imperial Governments of Japan and Russia, with a view to promote and facilitate intercourse and traffic, will, as soon as possible, conclude a separate convention for the regulation of their connecting railway services in Manchuria.

ANNEXE N° XIII.

(*Traduction*)

Les Gouvernements Impériaux du Japon et de Russie, en vue de favoriser et de faciliter des rapports et le trafic, concluront, aussitôt que possible, une convention séparée pour le règlement de leurs services de raccordement de chemins de fer en Manchourie.

ANNEXE N° XIV.

Telegraphic exemplifications of this Treaty shall be submitted to His Majesty the Emperor of Japan and His Majesty the Emperor of Russia for approval and certificates that approval has been accorded, shall be exchanged between the Representatives of Japan and Russia at ..... as soon as possible, and not later than ..... days from the date hereof. Such approval shall take the place of ratification and shall, in all respects, have the same value and effect as ratification and from the date of the certificates above mentioned, the said Treaty shall enter into full force and vigour and be binding in all its parts.

ANNEXE N° XV.

(*Traduction*)

Les ampliations télégraphiques de ce Traité seront soumises à Sa Majesté l'Empereur du Japon et à Sa Majesté l'Empereur de Russie pour leur approbation, et les certificats constatant que cette approbation a été accordée seront échangés entre les Représentants du Japon et de Russie à ....., auusitôt que possible, et pas plus tard que dans ..... jours de la date du présent. Cette approbation tiendra lieu de la ratification et aura, sous tous les rapports, la même valeur et le même effet que la ratification, et à partir de la date des certificats susmentionnés, ledit Traité entrera en pleine vigueur et sera obligatoire dans toutes ses parties.

ANNEXE N° XVI.

In the morning sitting of August 29, complete agreement in principle on all points has been arrived at by the Conference and it has been decided to proceed to elaborate the details.

In the afternoon sitting of August 29, the Conference has discussed the details of the Treaty of Peace. It has been decided to entrust the drafting of the clauses of the Treaty to M. Denison, Legal Adviser to Foreign Office of Japan and Privy Councillor de Martens of the Foreign Office of Russia so as to finish the work as soon as possible.

PROTOCOLE N° XI.

Plusieurs des questions qui ont été débattues et arrêtées en principe à la séance du 29 Août, exigeaient une délibération ultérieure concernant la forme en laquelle les décisions prises seraient exprimées, ainsi que la rédaction même des actes formulant ces décisions.

Au cours de plusieurs conférences privées qui ont eu lieu le 1er et le 2 Septembre, les Plénipotentiaires sont convenus de ce qui suit:

1° Les bases principales du mode *d'évacuation de la Manchourie* feraient l'objet d'un article additionnel, annexé au Traité de Paix et dont la rédaction a été arrêtée par les Plénipotentiaires. (Annexe N° I)

2° *La question de Sakhaline* formerait l'objet de deux articles du Traité et d'un article additionel; la rédaction de ces trois pièces a été également arrêtée par les Plénipotentiaires. (Annexe N° II)

Les questions suivantes formeraient chacune un article du Traité, à savoir:

3° Adoption du système du traitément réciproque sur le pied de la nation la plus favorisée jusqu'à la conclusion d'un nouveau traité de commerce. (Annexe N° III)

4° Echange des prisonniers de guerre. (Annexe N° IV)

5° Mode de ratification du Traité de Paix. (Annexe N° V)

6° Règlement des services de raccordement des chemins de fer. (Annexe N° VI)

Les Plénipotentiaires sont en outre convenus de déclarer que le mot "contrôle" employé dans l'Article II du texte français du Traité devait être compris dans un sens aussi étendu que le mot "control" employé dans le même Article du texte anglais du dit Traité.

Portsmouth, le 5 Septembre 1905.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

ANNEXE N° I.

Les Gouvernements Impériaux du Japon et de Russie s'engagent mutuellement à commencer le retrait de leurs forces militaires du territoire de la Manchourie simultanément et immédiatement après la mise en vigueur du Traité de Paix; et dans une période de dix huit mois à partir de cette date les Armées des deux Puissances seront complètement retirées de la Manchourie, à l'exception du territoire à bail de la presqu'île de Liaotong.

Les forces des deux Puissances occupant les positions frontales seront retirées les premières.

Les Hautes Parties Contractantes se réservent le droit de maintenir des gardes pour protéger leurs lignes de chemin de fer respectives en Manchourie. Le nombre de ces gardes n'excédera pas quinze hommes par kilomètre; et dans la limite de ce nombre maximum, les Commandants des Armées japonaises et russes fixeront de commun accord, le nombre des gardes qui seront employés, le plus minime possible conformément aux exigences réelles.

Les Commandants des forces japonaises et russes en Manchourie s'entendront sur tous les détails relatifs à l'exécution de l'évacuation conformément aux principes ci-dessus énumérés, et prendront de commun accord, les mesures nécessaires pour effectuer l'évacuation aussitôt que possible et en tous cas pas plus tard que dans la période de dix huit mois.

ANNEXE N° II.

Le Gouvernement Impérial de Russie cède au Gouvernement Impérial du Japon en perpétuité et en pleine souveraineté la partie sud de l'Ile de Sakhaline et toutes les îles qui y sont adjacentes, ainsi que tous les travaux et propriétés publics qui s'y trouvent. Le cinquantième parallèle de latitude nord est adopté comme la limite du territoire cédé. La ligne frontière exacte de ce territoire sera déterminée conformément aux dispositions de l'Article additionnel II annexé à ce Traité.

Le Japon et la Russie conviennent mutuellement de ne construire dans leurs possessions respectives sur l'Ile de Sakhaline et sur les îles qui y sont adjacentes aucune fortification ni travaux militaires semblables. De même, ils s'engagent respectivement à ne prendre aucune mesure militaire qui pourrait entraver la libre navigation des Détroits de Lapérouse et de Tartarie.

Il est réservé aux sujets russes habitants du territoire cédé au Japon de vendre leurs propriétés immobilières et de se retirer dans leur pays ; mais, s'ils préfèrent rester dans le territoire cédé, ils seront maintenus et protégés dans le plein exercice de leurs industries et droits de propriété à la condition de se soumettre aux lois et à la juridiction japonaises. Le Japon aura la pleine liberté de retirer le droit de résidence dans ce territoire à tous les habitants se trouvant dans l'incapacité politique ou administrative, ou de les déporter de ce territoire. Il s'engage toutefois à ce que les droits de propriété de ces habitants soient pleinement respectés.

Aussitôt que possible après la mise en vigueur du présent Traité, une Commission de Délimitation, composée d'un nombre égal de membres qui seront nommés respectivement par les deux Hautes Parties Contractantes, marquera, sur les lieux, d'une manière permanente, la ligne exacte entre les possessions japonaise et russe de l'Ile de Sakhaline. La Commission sera tenue, autant que les considérations topographiques le permettent, à suivre le cinquantième parallèle de latitude nord pour la ligne de démarcation, et dans le cas où des déviations de la dite ligne sur quelques points seront trouvées nécessaires, compensation en sera faite par des déviations corrélatives sur d'autres points. Il sera, de même, le devoir de la dite Commission de préparer une liste et description des îles adjacentes qui seront comprises dans la cession, et finalement la Commission préparera et signera les cartes constatant les limites du territoire cédé. Les travaux de la Commission seront soumis à l'approbation des Hautes Parties Contractantes.

ANNEXE N° III.

Le Traité de Commerce et de Navigation entre le Japon et la Russie ayant été annulé par la guerre, les Gouvernements Impériaux du Japon et de Russie s'engagent à adopter comme base de leurs relations commerciales, jusqu'à la conclusion d'un nouveau traité de commerce et de navigation sur la base du Traité qui était en vigueur antérieurement à la guerre actuelle, le système du traitement réciproque sur le pied de la nation la plus favorisée, y compris les tarifs d'importation et d'exportation, les formalités de douane, les droits de transit et de tonnage et l'admission et le traitement des agents, des sujets et des vaisseaux d'un pays dans le territoire de l'autre.

ANNEXE N° IV.

Aussitôt que possible après la mise en vigueur du présent Traité, tous les prisonniers de guerre seront réciproquement restitués. Les Gouvernements Impériaux du Japon et de Russie nommeront, chacun de son côté, un Commissaire spécial qui se chargera des prisonniers. Tous les prisonniers se trouvant entre les mains de l'un des Gouvernements seront remis au Commissaire de l'autre Gouvernement ou à son représentant dûment autorisé, qui les recevra en tel nombre et dans tels ports convenables de l'Etat remettant que ce dernier aurait notifié d'avance au Commissaire de l'Etat recevant.

Les Gouvernements du Japon et de Russie présenteront l'un à l'autre, le plus tôt possible après que la remise des prisonniers aura été achevée, un compte documenté des dépenses directes faites respectivement par eux pour le soin et l'entretien des prisonniers depuis la date de la capture ou de la reddition jusqu'à celle de la mort ou de la remise. La Russie s'engage à rembourser au Japon, aussitôt que possible après l'échange de ces comptes comme il est stipulé ci-dessus, la différence entre le montant réel ainsi dépensé par le Japon et le montant réel également déboursé par la Russie.

ANNEXE N° V.

Le présent Traité sera ratifié par Leurs Majestés l'Empereur du Japon et l'Empereur de toutes les Russies. Cette ratification sera, dans le plus bref délai possible et en tous cas pas plus tard que dans cinquante jours à partir de la date de la signature du Traité, notifiée aux Gouvernements Impériaux du Japon et de Russie respectivement, par l'intermédiaire du Ministre de France à Tokio et de l'Ambassadeur des Etats Unis d'Amérique à Saint Pétersbourg, et à partir de la date de la dernière de ces notifications ce Traité sera, dans toutes ses parties, mis en pleine vigueur.

L'échange formel des ratifications se fera à Washington aussitôt que possible.

ANNEXE N° VI.

Les Gouvernements Impériaux du Japon et de Russie, en vue de favoriser et de faciliter les relations et le trafic, concluront, aussitôt que possible, une convention séparée pour le règlement de leurs services de raccordement de chemins de fer en Manchourie.

PROTOCOLE FINAL (N° XII).

Séance du 5 Septembre 1905.

La séance est ouverte à 3 heures 50.

Etaient présents:

Pour le Japon:

Le Baron Komura et M. Takahira, assistés de M. M. Denison, Sato, Yamaza, Adatci, le Colonel Tachibana, le Capitaine de Frégate Takeshita, Otchiai, Honda, Hanihara et Konishi;

Pour la Russie:

M. Witte et le Baron Rosen, assistés de M. M. de Martens, Pokotiloff, le Général Major Yermoloff, le Capitaine de Frégate Roussine, de Plançon, Korostovetz et Nabokoff.

Les Plénipotentiaires du Japon et de Russie ayant vérifié et trouvé conformes les quatre textes du Traité de Paix dont deux en langue française et deux en langue anglaise, ont signé le Traité et les Articles additionnels annexés au Traité, et y ont apposé leurs sceaux.

Après quoi, chaque Partie s'est mise en possession des deux textes du Traité dont l'un en langue anglaise et l'autre en langue française.

Portmouth, le 5 Septembre 1905.

(Signé) Serge Witte. (Signé) Jutaro Komura.

(Signé) Rosen. (Signé) K. Takahira.

SOLICITOR'S OFFICE
AMERICAN LEGATION,
TOKIO.
FEB 1 1906
File

No. 367.

January 9, 1906.

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OF STATE.

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Barque "Antiope."

Translation of Judgment of Yokosuka Prize Court enclosed.

INDEX BUREAU
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AMERICAN LEGATION,
TOKIO.

No. 367. January 9, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

Referring to my despatch No. 347 of December 1, 1905, I have the honor to transmit herewith a translation of the judgment rendered by the Prize Court at Yokosuka, Japan, November 30, 1905, in the matter of the British barque "Antiope" and her cargo.

Judgment on appeal in this case has not yet been rendered.

I have the honor to be,

Sir,

Your obedient servant,

ENCLOSURE: Translation of Judgment, as above.

Enclosure with Mr. Wilson's No. 367 of January 9, 1906.

Correct Translation
Ernest W. Clement
Acting U. S. Interpreter
of Legation.

- DECISION -

No XXIII.

Petitioner. - Bark Antiope Company Limited, owner of vessels; No 63, Wharf Street, Victoria City, British Columbia, Canada, North America.

Representative:- R. Seabrook, Vice President of the Company.

Attorney, P.J.R. Mathiesen,

Master of the sailing vessel "Antiope".

Petitioner.- Barneson Hibbard Company; Shipping Agents, San Francisco, California, United States, North America.

Representative. John Barneson, President of the Company.

Advocate of the Petitioners:-

Rikeo Ideura, Barrister, No 193 Yamashita cho, Yokohama, Kanagawa Prefecture.

In the case of the capture of the British sailing ship "Antiope", examination has been made and the following decision given:-

- TEXT OF THE DECISION -

The British sailing ship "Antiope" is hereby released.

About 1800 tons of salt carried by the said ship are decided to be lawful prize.

- FACTS AND GROUNDS -

The sailing ship "Antiope" which is the property of the petitioner Bark Antiope Company of Victoria City, British Columbia, is a merchant vessel registered at Victoria and flying the British flag. The ship took in, according to the charter-party concluded between Barneson Hibbard Company of San Francisco, one of the petitioners, and Charles Nelson Company of San Francisco, agent of the owner of the ship, a cargo of over 1,800 tons of half manufactured salt. The cargo which is part of 4,000 tons of salt bought by M. Ruly (?) a Russian subject residing at Nicolaevsk, was to be delivered to the same M.Ruly and the

Branch Office of the Russo-Chinese Bank also at Nicolaevsk. The ship left San Francisco on the 21st July, this year, and while on her way to her destination, she was detected and seized by the Imperial man of war "Tainan Maru" as engaged in transportation of contraband of war, on the 13th August at 9 a.m. in North Latitude 53° 52' and East Longitude 141° 29'.

The above facts am are clear from the written statement submitted by Lieutenant Tsuneo Abe, I.J.N. representative of the Captain of the Imperial man of war "Tainan Maru", testimony given by the same officer, Lieutenant Shunji Ohara, I.J.N., and P.J.R.Mathiesen and L.M.Reed, master and first mate of the sailing ship "Antiope", list of goods, certificate of nationality, shipping papers, bills of lading, clearance, freight list, letter of Charles Nelson, addressed to themaster of the ship, log book, ship's journal, etc.

The purport of the petition is that the sailing ship "Antiope" is a British merchantman belonging to one of the petitioners mentioned above, the Bark Antiope Company, a British firm. She took in at San Francisco a cargo of over 1,800 tons of salt, part of 4,000 tons of salt purchased by the Russian subject M.Ruly, to be transported to Nicolaevsk, Siberia, in accordance with the charter-party agreed upon between J. Charles Nelson Company, an American firm, agent of the owner of the ship, and Barneson Hibbard Company, one of the petitioners mentioned above. The ship left San Francisco on the 20th June, this year; and while on her way to Nicolaevsk, she was seized by an Imperial man of war on suspicion that she was engaged in the transportation of contraband of war. The ship however never took in contraband of war, but was simply engaged in carrying salt to be used in connection with the fishing industry; and neither the ship nor the cargo ought be captured for the following reasons:- (1). The ship under consideration is a neutral vessel;

and the owner, his agent J. Charles Nelson Company and the master and all other members of the crew of the ship did not know that the cargo under consideration was purchased by the Russian army or navy or was being transported to be supplied to it. Even if it were admitted, yielding a step, that the purchaser of the salt, M.Ruly, was importing the salt for the use of the Russian army or navy under the pretext of using it for the fishing industry, then the ship ought not to bear the responsibility of having been engaged in carrying contraband of war. (2). Neither the master nor any other member of the crew resisted the capture of the ship, nor did the ship attempt to make her escape. (3). The ship's papers were complete, and all entries were made regularly without any false statement, nor did the crew make any attempt to destroy or hide any important papers. (4). The port of the ship's destination, Nicolaevsk, Russia, was never publicly blockaded by the Japanese navy, and therefore the ship's attempt to enter the port was not a breach of blockade. (5). The cargo under consideration consists of salt only, and no contraband good or contraband person was on board the ship. As reasons why the cargo was not contraband of war the advocate further states (1) The cargo is half powdered American rock salt, and without further preparation it is not fit for table use. From its nature therefore, it is suitable only to salt or preserve fish and is not of a kind to be included in provisions. It is true that the salt is of better quality than is generally used for salting fish. But better salt will produce better salt fish which will command a higher price; and it is very natural for business men to desire to have salt of good quality, such as the article now under consideration. Therefore the fact that it is of better quality than is generally used for salting purposes, cannot properly be a reason by which to decide that it was not intended for salting fish. Moreover, the word "provisions" in the 2nd category of the Departmental Instruction

No 1 of the Imperial Japanese Navy Department, means articles that can be directly eaten; so that any article such as salt, which is only useful for salting or preserving fish but cannot directly be used as food, does not come within the scope of the word. It is therefore clear that salt is not contraband of war even in case when it is destined for the enemy's army or navy, or in case when it can be inferred from the place of its destination that it is to be supplied tothe enemy's army or navy. For stronger reason, then, the salt under consideration is not contraband of war; for it is not destined to the enemy's army or navy, nor can such destination be inferred from the state of things at the place of its destination, Nicolaevsk though it is enemy's territory. (2). It may seem that the quantity of the salt is ~~xxx~~ too great for the fishing industry of the Amur and neighbourhood, but the case is otherwise. The district consumes yearly an enormous quantity, and as export of salt from Japan has been totally stopped since the commencement of the Japan-Russia war, it is natural that they should look to America for such a large supply of it. On the contrary, if it is considered the salt was intended for military use, the quantity is too great. For 4,000 tons of salt, when used at table alone, will last six months for over 600,000 men, and no such large forces were stationed either at Nicolaevsk or in its neighbourhood. Moreover the advocate cannot see why the Russian Government should attempt to transport contraband of war, defraying a large amount of money for it, paying a high freightage, and running the risk of capture by the Japanese Navy, when it can send the goods from home. Reasoning from its quantity alone, the salt is not, therefore, contraband of war. (3). The place of destination of the goods under consideration, Nicolaevsk, is not a naval port. Nor are there any forts or military barracks there. The place also is not within the area blockaded by the Japanese Navy. It is not strange therefore that any person should attempt to transport there

common merchandise, and the goods under consideration, too, were being transported there with such object. (4). The Russo-Chinese Bank had clearly taken part in the contract for the salt under consideration, but only to guarantee the payment of the price. Again it may seem that the same bank is the purchaser of 600 tons of the salt; but the bank never buys or sells merchandise, so that it is not the purchaser of the salt. Therefore, even if it is admitted that the bank has sometimes transacted the business of the Russian Government, it cannot be inferred on that account that the salt was purchased by that Government. (5). The high charge for transportation for the cargo in question is due to the impossibility of getting return cargo for vessels carrying merchandize to Nicolaevsk and also to the disadvantage of the necessity to buy ballast for the return trip. (6). Though it may be assumed for the sake of argument that M. Ruly, the purchaser consluded the contract of purchase of the cargo in question under the pretext of using it for the fishery, but with a view to selling it to the Russian Government or the Russian Army, yet the defendant, who is the owner of the cargo, states that he had no knowledge whatever of this. The defendant further states that he shipped the cargo in question, firmly believing that it was not contraband of war. According to the statistics of the past two or three years based on No 2 of the Monthly Statistics published by the Maritime Province Statistical Society, the quantity of salt annually imported into the region of Nicolaevsk in time of peace, except the quantity imported from our country, (Japan,) has hitherto not exceeded 140,000 - 170,000 bushels. The fact that the whole quantity of salt imported from our country is used for the purpose of salting fish and that there has never been any surplus, it being sometimes insufficient, is made clear by the statement of Ichijiro Itani, the witness. The statistics of it are here omitted, as there is no need of including it at present

when both export and import trade with Japan are cut off. Now the cargo carried by the vessel in question for M. Ruly, the consignee alone is 4,000 tons (one ton - 63 bushels). If we add to this quantity, the cargoes carried by the Barracouta, (about 1600 tons of salt,) by the Centennial, (about 1200 tons of salt,) and other vessels, we can see how great the aggregate quantity is of the cargoes carried by the vessels captured by the Japanese warships alone. The Commercial and Industrial Report published by the Finance Department of the Russian Government, July 20th 1905, clearly states that the ratio of salt needed for salting fish is five bushels of fish to one bushel of salt, and we can see what an enormous quantity of salt fish could be made with such a great quantity of salt. The markets in the interior of Russia for the salt fish produced in the regions in question is extremely limited, and the majority of the product used to be sold in Japan. Though some people have been hoping to ship them to European Russia, yet the proceedings of the Fourth Havalovsk Conference of 1903 and statements in the books referred to in the Proceedings clearly state that the hope has not yet been realised. It is evident therefore that such an immense quantity of salt can by no means be consumed as ordinary merchandize for the inhabitants of the thinly peopled maritime provinces today when there is no trade between Japan and Russia in consequence of the war. It is also a fact universally known that hitherto the Russian troops stationed in Vladivostock and the region of Manchuria have been the greatest consumers of salted fish. Furthermore, in the report of 1901 of the Statistical Committee of the Maritime Provinces there is a statement that the Commissary Department of the Russian Army on the Amur bought in 1900, direct from the fishermen on the coast, 114,500 bushels of salted salmon as food for the Russian troops in Siberia and Manchuria. The fact that the demand for the same is greater in time of war can be verified by the following statement taken from the aforesaid Journal of Commerce

and Industry.

> "In spite of the fact that during the war intercourse with the outside world has almost been cut off, the demand for salted salmon has not decreased. On the contrary the demand has increased, and the army buys them, paying higher prices....."

Another thing that should be taken into consideration is that an ordinary merchant, whose object in trade is profit, would not produce more salted fish than are needed by the inhabitants in the interior of the maritime provinces. It can be seen, therefore, that when M. Guly went to America to buy a greater quantity of salt than is needed in time of peace he did not mean to produce salted fish for an ordinary commercial purpose; but it cannot be regarded otherwise than an attempt to supply the Russian army with food. Though the representative of the defendant argues that by food is meant only those articles which can be eaten at once (without any further process), anything that by nature can be tasted by itself (without adding anything) can be called food, whether it is used as it is or mixed or seasoned with something else. As to the salt in question, there is no reason why it should not be called food even though it may not be suitable for table use but for salting fish. Whether or not a cargo is contraband of war is decided by its nature and the purpose for which it is to be used. Whether or not the consignor has any knowledge of this has no bearing upon the decision.

For the reasons given above, the cargo in question should be regarded as contraband of war, as it is evident that it was meant to supply the Russian Army, though its destination was Nicolaevsk. Since the theories of international law agree with the proceedings in that contraband of war is to be confiscated, there is no need for any further explanation with reference to the other points in the defendants plea.

With regard to the vessel in question, though the prosecuting attorney argues that it should be confiscated on the ground that not only the agents of the owner of the vessel shipped the cargo in question knowing it was contraband of war, but also that the whole

cargo is contraband of war, yet according to the facts stated above it can hardly be admitted that the owner of the vessel or the agents were aware of the fact that they were engaged in transporting contraband of war. Furthermore, though the whole cargo of a vessel may be contraband of war, the vessel should not be confiscated unless a fraudulent method is used or there is some special reason for it. Though some maintain by the theories and precedents of international law that for the simple reason that the whole cargo is contraband of war the vessel carrying the same is also to be confiscated, yet there are many who object to this interpretation. Moreover the regulations of our country for capturing enemies' vessels do not recognize this principle, and this Prize Court does not approve it as the Court does not regard it as fair and just. For this reason the second point in the argument of the prosecuting attorney that the vessel should be confiscated as the whole cargo thereof is contraband of war cannot be accepted. Besides, since there is no other reason for confiscating the vessel in question, it is to be released and the decision is hereby made as stated in the main clause.

Sentence pronounced on November 30, 1905, at the Yokosuka Prize Court in presence of Kuniwo Yanagita, Prosecuting Attorney of the Yokosuka Prize Court.

Kyo Hasegawa,
Presiding Judge of the Yokosuka Prize Court.

Mineichiro Adachi,
Judge of the Yokosuka Prize Court,

Kisaburo Suzuki,
Judge of the Yokosuka Prize Court,

Chuji Shimooka,
Judge of the Yokosuka Prize Court,

Tetsukichi Kurachi,
Judge of the Yokosuka Prize Court,

Eitaro Kataoka,
Judge of the Yokosuka Prize Court,

Tampu Yamakawa,
Judge of the Yokosuka Prize Court,

Matsutaro Fujita,
Clerk of the Yokosuka Prize Court,

AMERICAN LEGATION,
TOKIO.

No. 368. January 9, 1906.

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ASSISTANT SECRETARY,
JAN 31 1906

CHIEF CLERK
JAN
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1906
DEPARTMENT
OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:- New Japanese cabinet installed.

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AMERICAN LEGATION,
TOKIO.

No. 368. January 9, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

In confirming my telegram of yesterday morning I have the honor to refer to the Legation's dispatches Nos. 357 and 360 of the 22 and 30 ultimo, in regard to the political situation in Japan. The telegram is as follows:

"Eighth. New cabinet gazetted last night. Premier, "Marquis Saionji; Minister Foreign Affairs, Takaaki Kato."

The remaining portfolios are distributed thus:- Home Affairs, Mr. Kei Hara; Finance, Mr. Yoshiro Sakatani; War, Lieutenant-General Terauchi; the Navy, Vice-Admiral Saito; Justice, Mr. Masahisa Matsuda; Education, the Marquis Saionji (ad interim); Agriculture and Commerce, Mr. Koki Matsuoka; Communications, Mr. Isaburo Yamagata. Mr Makino, now Japanese Minister at Vienna, is to return home and be at the head of the Department for Education.

Marquis Saionji, who has formed the new ministry, belongs to the ancient Japanese nobility. He served as a Staff officer in the War of the Restoration (1867), and also served the new Imperial government as a local governor. From 1870 to 1880 he studied in France. In the past he has been Minister for Education twice, Minister for Foreign Affairs ad interim twice, and later President of the Privy Council, until

Despatch No. 402 of Mar 9—

AMERICAN LEGATION,
TOKIO.

No. 368. January 9, 1906.

To the Honorable Elihu Root,
Secretary of State,
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Despatch No. 1 of Mag.

til he resigned that office to become leader of the Constitutionalists.

Mr. Takaaki Kato's public service has been given to the departments of finance and of home affairs, as well as to the Foreign Office. He represented Japan at the Court of St. James for several years and in 1900 he was Minister for Foreign Affairs. After that he stood for election and became a member of the House of Representatives.

The Prime Minister and the ministers of justice and of home affairs have been prominent in the Constitutional Party. These three supply the slight party complexion which this cabinet possesses; none of the other ministers has any distinct party connection.

It is noteworthy that the ministers of finance and of the navy have been promoted from the posts of vice-minister in the departments of which they now become the heads, and that three of the other appointees have previously served as vice-ministers, while all have had considerable former experience in the Government. Admiral Saito, who becomes Minister for the Navy, was for some years Naval Attaché of the Japanese Legation in Washington.

The installment of the new cabinet is received very quietly by the vernacular press.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 369. January 9, 1906.

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Aoki Feb. 2

File Syf

Mr. Huntington Wilson to Mr. Root.

Subject:- Viscount Aoki, Japanese Ambassador to the United States.

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AMERICAN LEGATION,
TOKIO.

No. 369. January 9, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to inform you that the appointment of Viscount Aoki as His Imperial Japanese Majesty's Ambassador to the United States was made on the 7th instant and gazetted today.

The Viscount Aoki's official carreer was begun by his appointment as Secretary of Legation at Berlin in 1873. The following year he was accredited as Envoy Extraordinary and Minister Plenipotentiary at that capital, in which capacity he continued about eleven years. His next appointments were as Vice-Minister for Foreign Affairs, and then as Minister for Foreign Affairs (1889-1891). From 1892 to 1895 he was again Minister to Germany. Returning to Japan he became once more Minister for Foreign Affairs, from 1898 to 1900. Upon retirement from the Foreign Office he was made a Privy Councillor. In the course of his missions to Germany he was accredited also, at different times, to Austria-Hungary, to Holland, to Belgium, and to Great Britain, and many of Japan's treaties now in force bear his signature.

Viscount Aoki is sixty-two years old. He speaks German perfectly and English pretty well. His wife is a German lady.

I have the honor to be,
Sir,
Your obedient servant,

Huntington Wilson.

FEB 15 1906

AMERICAN LEGATION,
TOKIO.

Secretary of State.
FEB 14 1906

No. 370. January 12, 1906.

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Extract to Com. of Labor
Feb. 17, 06.
B. T. R.

Mr. Huntington Wilson to Mr. Root

Subject:- China-Japan Treaty regarding Manchuria.

Noted in Library.
Feb. 19. 1906. H. S.

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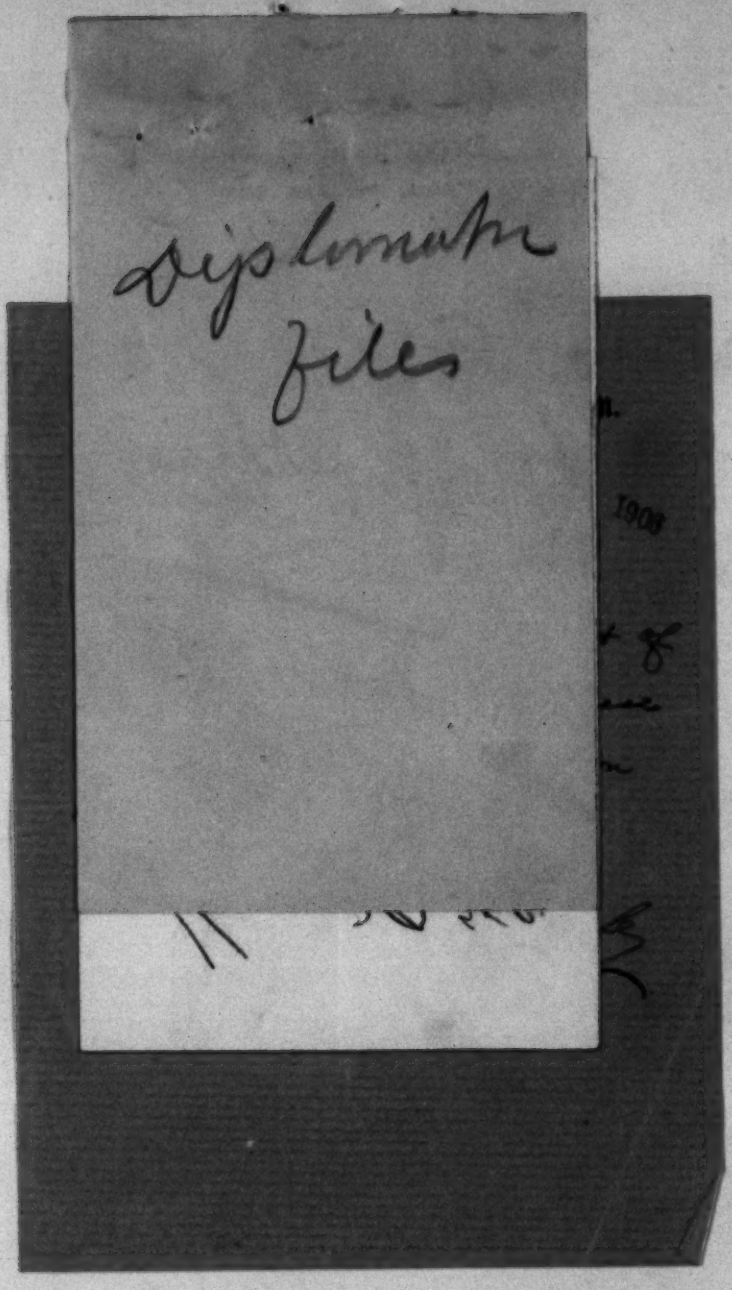
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Map sales

Taken out 19/9/06
6/6.00

Mr Bloomer
I think 6 & 7
should suit the
list for 6 pence
if not let me know
Thanks.
S.B.

1908

Mr. Smith.

Second Assistant Secretary's Room.

MEMORANDUM.

FEB 11 1908

Dear Mr. Secretary:

This gives some hint of the secret Chino-Japanese protocols for which you have telegraphed.

A. A. L.

AMERICAN LEGATION,
TOKIO.

No. 370.

January 12, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to transmit herewith a copy of the Foreign Office's English translation of the Treaty and Additional Agreement between Japan and China relative to Manchuria, which were signed at Peking on the 22nd ultimo. This treaty and agreement were done in the Chinese and Japanese languages only, and it is not provided which text shall govern. This is interesting as a departure from Japan's former practice in making treaties to have the governing text in a western language, rather than one in the relatively ambiguous Japanese or Chinese.

Yesterday Mr. Takaaki Kato, the Minister for Foreign Affairs, told me that these documents were not to have been published until after the exchange of ratifications, but that since much of their contents had in some way become known, it had been decided to give them out informally. I was also informed that the treaty and agreement had already been communicated to you by telegraph through the Japanese Legation at Washington. For that reason no telegram on the subject was despatched by this legation.

It will be seen that the treaty itself deals only with China's transfer to Japan of territory in the Liaotung Peninsula which had been held under lease

by

by Russia, and the railway between Port Arthur and Changchung with all its branches, together with all the rights, privileges, and accessories appertaining to the lease and to the railway concession.

The agreement is much longer. The first article secures the opening of sixteen cities throughout Manchuria as places of international residence and trade, and is therefore of great commercial importance.

Under Article VI Japan acquires the right to perfeat and maintain a railway line between Antung and Mukden, the term of the concession to expire eighteen years from the present time. The governments of Japan and China further agree to arrange by a separate convention for connecting services between the railway lines in south Manchuria and all the other lines in China.

Under Article IX Japan is to have settlements at Yingkow, Antung, and Mukden.

Finally, Article X provides for the formation of a joint-stock company composed of Chinese and Japanese subjects to work the timber lands on the right bank of the Yalu River. The profits are to be equally shared by the Chinese and Japanese shareholders, the details of the concession to be concluded later. It is expected that this will be an exceedingly lucrative undertaking since the forests of the Yalu are reputed to be immensely rich, being drawn upon for timber to be used in important constructions at Peking and other distant cities.

Certain protocols, containing further arrangements of no small importance, were drawn up in conjunction with the treaty and agreement; but, as I was informed at the Foreign Office, these protocols are being kept

kept secret for the present in accordance with an understanding with China. I have learned confidentially, however, that they provide for Mukden-Sinmintun and Changchun-Kirin branch railway lines, to be exploited in some manner jointly by Japanese and Chinese. It is doubtful whether Japan acquires more than the right to furnish capital and such general interest in the lines as that may involve.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

Enclosures:

1. Treaty and Agreement between Japan and China relating to Manchuria,- English translation.
2. Japanese text of the above.

U. S. Legation, Tokio.
Read. JAN 12 1906
No.

ENCLOSURE NO. 1 WITH MR. WILSON'S NO.370 of JANUARY 12, 1906.

TREATY

AND

ADDITIONAL AGREEMENT

BETWEEN

JAPAN AND CHINA

RELATING TO

MANCHURIA.

His Majesty the Emperor of Japan and His Majesty the Emperor of China, desiring to adjust certain matters of common concern growing out of the Treaty of Peace between Japan and Russia of September 5, 1905, have resolved to conclude a Treaty with that object in view and have for that purpose named Their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan:

Baron Komura Jutaro, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, Minister for Foreign Affairs and Special Ambassador of His Majesty, and

Uchida Yasuya, Jushii, Second Class of the Imperial Order of the Rising Sun, His Majesty's Envoy Extraordinary and Minister Plenipotentiary;

and His Majesty the Emperor of China:

Prince Ching, Presiding Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty,

Chu Hung-chi, Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty, and

Yuan Shih-kai, Viceroy of the Province of Chihli, Junior Guardian of the Heir-Apparent, Minister Superintendent of Trade for the Northern Ports and Plenipotentiary of His Majesty;

Who, after having exchanged their full powers which were found to be in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I.

The Imperial Chinese Government consent to all the transfers and assignments made by Russia to Japan by Articles V and VI of the Treaty of Peace above mentioned.

ARTICLE II.

The Imperial Japanese Government engage that in regard to the leased territory as well as in the matter of railway construction and exploitation, they will, so far as circumstances permit, conform to the original agreements concluded between China and Russia. In case any question arises in the future on these subjects, the Japanese Government will decide it in consultation with the Chinese Government.

ARTICLE III.

The present Treaty shall come into full force from the date of signature. It shall be ratified by Their Majesties the Emperor of Japan and the Emperor of China and the ratifications shall be exchanged at Peking as soon as possible, and not later than two months from the present date.

In witness whereof, the respective Plenipotentiaries have signed this Treaty in duplicate in the Japanese and Chinese languages and have thereto affixed their seals.

Done at Peking, this twenty-second day of the twelfth month of the thirty-eighth year of Meiji, corresponding to the twenty-sixth day of the eleventh moon of the thirty-first year of Kuang Hsü. [Dec. 22, 1905].

(Signed) Baron Komura Jutaro, [L. S.]
Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, Minister for Foreign Affairs and Special Ambassador of His Majesty the Emperor of Japan.

(Signed) Uchida Yasuya, [L. S.]
Jushii, Second Class of the Imperial Order of the Rising Sun, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan.

(Signed) Prince Ching, [L. S.]
Presiding Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty the Emperor of China.

(Signed) Chu Hung-chi, [L. S.]
Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty the Emperor of China.

(Signed) Yuan Shih-kai, [L. S.]
Viceroy of the Province of Chihli, Junior Guardian of the Heir-Apparent, Minister Superintendent of Trade for the Northern Ports and Plenipotentiary of His Majesty the Emperor of China.

The Governments of Japan and China, with a view to regulate, for their guidance, certain questions in which they are both interested in Manchuria, in addition to those provided for in the Treaty signed this day, have agreed as follows:

ARTICLE I.

The Imperial Chinese Government agree that as soon as possible after the evacuation of Manchuria by the Japanese and Russian forces, the following cities and towns in Manchuria will be opened by China herself as places of international residence and trade:

In the Province of Shingking:

Fenghwangcheng; Liaoyang; Hsinmintun; Tiehling; Tungkiangtzu and Fakumen.

In the Province of Kirin:

Changchun (Kuanchengtzu); Kirin; Harbin; Ninguta; Hunchun and Sanhsing.

In the Province of Heilungkiang:

Tsitsihar; Hailar; Aihun and Manchuli.

ARTICLE II.

In view of the earnest desire expressed by the Imperial Chinese Government to have the Japanese and Russian troops and railway guards in Manchuria withdrawn as soon as possible, and in order to meet this desire, the Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards, or in case other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquillity shall have been re-established in Manchuria and China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.

ARTICLE III.

The Imperial Japanese Government, immediately upon the withdrawal of their troops from any regions in Manchuria, shall notify the Imperial Chinese Government of the regions thus evacuated, and even within the period stipulated for the withdrawal of troops in the Additional Articles of the Treaty of Peace between Japan and Russia, the Chinese Government may send necessary troops to the evacuated regions of which they have been already notified as above mentioned, for the purpose of maintaining order and tranquillity in those regions. If, in the regions from which Japanese troops have not yet been withdrawn, any villages are disturbed or damaged by native bandits, the Chinese local authorities may also dispatch a suitable military force for the purpose of capturing or dispersing those bandits. Such troops, however, shall not proceed within twenty Chinese li from the boundary of the territory where Japanese troops are stationed.

ARTICLE IV.

The Imperial Government of Japan engage that Chinese public and private property in Manchuria, which they have occupied or expropriated on account of military necessity, shall be restored at the time the Japanese troops are withdrawn from Manchuria and that such property as is no longer required for military purposes shall be restored even before such withdrawal.

ARTICLE V.

The Imperial Chinese Government engage to take all necessary measures to protect fully and completely the grounds in Manchuria in which the tombs and monuments of the Japanese officers and soldiers who were killed in war are located.

ARTICLE VI.

The Imperial Chinese Government agree that Japan has the right to maintain and work the military railway line constructed between Antung and Mukden and to improve the said line so as to make it fit for the conveyance of commercial and industrial goods of all nations. The term for which such right is conceded is fifteen years from the date of the completion of the improvements above provided for. The work of such improvements is to be completed within two years, exclusive of a period of twelve months during which it will have to be delayed owing to the necessity of using the existing line for the withdrawal of troops. The term of the concession above mentioned is therefore to expire in the 49th year of Kuang Hsü. At the expiration of that term, the said railway shall be sold to China at a price to be determined by appraisement of all its properties by a foreign expert who will be selected by both parties. The conveyance by the railway of the troops and munitions of war of the Chinese Government prior to such sale shall be dealt with in accordance with the regulations of the Eastern Chinese Railway. Regarding the manner in which the improvements of the railway are to be effected, it is agreed that the person undertaking the work on behalf of Japan shall consult with the Commissioner dispatched for the purpose by China. The Chinese Government will also appoint a Commissoner to look after the business relating to the railway as is provided in the Agreement relating to the Eastern Chinese Railway. It is further agreed that detailed regulations shall be concluded regarding the tariffs for the carriage by the railway of the public and private goods of China.

ARTICLE VII.

The Governments of Japan and China, with a view to promote and facilitate intercourse and traffic, will conclude, as soon as possible, a separate convention for the regulation of connecting services between the railway lines in South Manchuria and all the other railway lines in China.

ARTICLE VIII.

The Imperial Chinese Government engage that all materials required for the railways in South Manchuria shall be exempt from all duties, taxes and likin.

ARTICLE IX.

The methods of laying out the Japanese Settlement at Yingkou in the Province of Shingking, which has already been opened to trade, and at Antung and Mukden in the same Province, which are still unopen although stipulated to be opened, shall be separately arranged and determined by officials of Japan and China.

ARTICLE X.

The Imperial Chinese Government agree that a joint-stock company of forestry composed of Japanese and Chinese capitalists shall be organized for the exploitation of the forests in the regions on the right bank of the River Yalu and that a detailed agreement shall be concluded in which the area and term of the concession as well as the organization of the company and all regulations concerning the joint work of exploitation shall be provided for. The Japanese and Chinese shareholders shall share equally in the profits of the undertaking.

ARTICLE XI.

The Governments of Japan and China engage that in all that relates to frontier trade between Manchuria and Corea most favoured nation treatment shall be reciprocally extended.

ARTICLE XII.

The Governments of Japan and China engage that in all matters dealt with in the Treaty signed this day or in the present Agreement the most favourable treatment shall be reciprocally extended.

The present Agreement shall take effect from the date of signature. When the Treaty signed this day is ratified, this Agreement shall also be considered as approved.

In witness whereof, the Undersigned, duly authorized by their respective Governments, have signed the present Agreement in duplicate in the Japanese and Chinese languages and have thereto affixed their seals.

Done at Peking, this 22nd day of the 12th month of the 38th year of Meiji, corresponding to the 26th day of the 11th moon of the 31st year of Kuang Hsü.

(Signed) Baron KOMURA JUTARO, [L. S.]

Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, Minister for Foreign Affairs and Special Ambassador of His Majesty the Emperor of Japan.

(Signed) UCHIDA YASUYA, [L. S.]

Jushii, Second Class of the Imperial Order of the Rising Sun, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan.

(Signed) PRINCE CHING, [L. S.]

Presiding Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty the Emperor of China.

(Signed) CHU HUNG-CHI, [L. S.]

Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty the Emperor of China.

(Signed) YUAN SHIH-KAI, [L. S.]

Viceroy of the Province of Chihli, Junior Guardian of the Heir-Apparent, Minister Superintendent of Trade for the Northern Ports and Plenipotentiary of His Majesty the Emperor of China.

第十一條

滿韓國境貿易ニ關シテハ相互ニ最惠國ノ待遇ヲ與フヘキモノトス

第十二條

日清兩國政府ハ本日調印シタル條約及附屬協約ノ各條ニ記載セル一切ノ事項ニ關シ相互ニ最優ノ待遇ヲ與フルコトヲ承諾ス

本協約ハ調印ノ日ヨリ効力ヲ生スヘク且本日調印ノ條約批准セラレタル時ハ本協約モ亦同時ニ批准セラレタルモノト看做スヘシ

右證據トシテ下名ハ各其本國政府ヨリ相當ノ委任ヲ受ケ日本文及漢文ヲ以テ作ラレタル各二通ノ本協約ニ記名調印スルモノナリ

明治三十八年十二月二十二日即光緒三十一年十一月二十六日北京ニ於テ之ヲ作ル

大日本帝國特派全權大使外務大臣從三位勳一等　男爵小村壽太郎(記名)印

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大清國欽差全權大臣軍機大臣總理外務部事務　慶親王(記名)印

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大清國欽差全權大臣北洋大臣太子少保直隸總督　袁世凱(記名)印

ク又該鐵道改良ノ方法ニ至テハ日本國ノ經營擔當者ニ於テ清國ヨリ特派スル委員ト切實ニ商議スヘキモノトス該鐵道ニ關スル事務ハ東清鐵道條約ニ準シ清國政府ヨリ委員ヲ派シ查察經理セシムヘク又該鐵道ニ由リ清國公私貨物ヲ運搬スル運賃ニ關シテハ別ニ詳細ナル規程ヲ設クヘキモノトス

第七條

日清兩國政府ハ交通及運輸ヲ增進シ且之ヲ便易ナラシムルノ目的ヲ以テ南滿洲鐵道ト清國各鐵道トノ接續業務ヲ規定セムカ爲メ成ルヘク速ニ別約ヲ締結スヘシ

第八條

清國政府ハ南滿洲鐵道ニ要スル諸般ノ材料ニ對シ各種ノ稅金及釐金ヲ免スヘキコトヲ承諾ス

第九條

盛京省內ニ於テ既ニ通商場ヲ開設シタル營口及通商場トナスヘク約定シアルモ未タ開カレサル安東縣並奉天府各地方ニ於テ日本居留地ヲ劃定スル方法ハ日清兩國官吏ニ於テ別ニ協議決定スヘシ

第十條

清國政府ハ日清合同材木會社ヲ設立シ鴨綠江右岸地方ニ於テ森林截伐ニ從事スルコト其ノ地區ノ廣狹年限ノ長短及會社設立ノ方法並合同經營ニ關スル一切ノ章程ハ別ニ詳細ナル約束ヲ取極ムヘキコトヲ承諾ス日清兩國株主ノ利權ハ均等分配ヲ期スヘシ

政府ハ日露講和條約追加約款ニ規定セル撤兵期限内ト雖既ニ上記ノ如ク撤兵完了ノ通知ヲ得タル各地方ニハ自ラ其ノ安寧秩序ヲ維持スル爲メ必要ノ軍隊ヲ派遣スルコトヲ得ルモノトス日本國軍隊ノ未タ撤退セサル地方ニ於テ若シ土匪ノ村落ヲ擾害スルコトアル時ハ清國地方官モ亦相當ノ兵隊ヲ派遣シ之ヲ勦捕スルコトヲ得但シ日本國軍隊駐屯地界ヨリ二十清里以内ニ進入スルコトヲ得サルモノトス

第四條

日本國政府ハ軍事上ノ必要ニヨリ滿洲ニ於テ占領又ハ收用セル清國公私財産ハ撤兵ノ際悉ク清國官民ニ還附シ又不用ニ歸スルモノハ撤兵前ト雖之ヲ還附スルコトヲ承諾ス

第五條

清國政府ハ滿洲ニ於ケル日本軍戰死者ノ墳墓及忠魂碑所在地ヲ完全ニ保護スル爲メ總テ必要ノ處置ヲ執ルヘキコトヲ約ス

第六條

清國政府ハ安東縣奉天間ニ敷設セル軍用鐵道ヲ日本國政府ニ於テ各國商工業ノ貨物運搬用ニ改メ引續キ經營スルコトヲ承諾ス該鐵道ハ改良工事完成ノ日ヨリ起算シ(但シ軍隊送還ノ爲メ遲延スヘキ期間十二箇月ヲ除キ二箇年ヲ以テ改良工事完成ノ期限トス)十五箇年ヲ以テ期限ト爲シ即光緒四十九年ニ至リテ止ム右期限ニ至ラハ双方ニ於テ他國ノ評價人一名ヲ選ミ該鐵道ノ各物件ヲ評價セシメテ清國ニ賣渡スヘシ其ノ賣渡前ニ在リテ清國政府ノ軍隊並兵器糧食ヲ輸送スル場合ニハ東清鐵道條約ニ準據シテ取扱フヘク又該鐵道改良ノ方法ニ至テハ日本國ノ經營擔當者ニ於テ清國ヨリ特派スル委員ト切

日清兩國政府ハ滿洲ニ於テ双方共ニ關係ヲ有スル他ノ事項ヲ決定シ以テ邊守ニ便ナラシムルヲ爲メ左ノ條項ヲ協定セリ

第一條

清國政府ハ日露軍隊撤退ノ後成ルヘク速ニ外國人ノ居住及貿易ノ爲メ自ラ進ミテ滿洲ニ於ケル左ノ都市ヲ開クヘキコトヲ約ス

盛京省　鳳凰城　遼陽　新民屯　鐵嶺　通江子　法庫門

吉林省　長春(寬城子)　吉林　哈爾賓　寧古塔　琿春　三姓

黑龍江省　齊齊哈爾　海拉爾　愛琿　滿洲里

第二條

清國政府ハ滿洲ニ於ケル日露兩國軍隊並ニ鐵道守備兵ノ成ルヘク速ニ撤退セラレムコトヲ切望スル旨ヲ言明シタルニ因リ日本國政府ハ清國政府ノ希望ニ應セムコトヲ欲シ若シ露國ニ於テ其ノ鐵道守備兵ノ撤退ヲ承諾スルカ或ハ清露兩國間ニ別ニ適當ノ方法ヲ協定シタル時ハ日本國政府モ同樣ニ照辦スヘキコトヲ承諾ス若シ滿洲地方平靖ニ歸シ外國人ノ生命財產ヲ清國自ラ完全ニ保護シ得ルニ至リタル時ハ日本國モ亦露國ト同時ニ鐵道守備兵ヲ撤退スヘシ

第三條

日本國政府ハ滿洲ニ於テ撤兵ヲ了シタル地方ハ直ナニ之ヲ清國政府ニ通知スヘク清國

ヲ批准セラルヘシ該批准書ハ本條約調印ノ日ヨリ二箇月以内ニ成ルヘク速ニ北京ニ於テ之ヲ交換スヘシ

右證據トシテ兩國全權委員ハ日本文及漢文ヲ以テ作ラレタル各二通ノ本條約ニ署名調印スルモノナリ

明治三十八年十二月二十二日即光緒三十一年十一月二十六日北京ニ於テ之ヲ作ル

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大清國欽差全權大臣北洋大臣太子少保直隸總督　袁世凱(記名)印

大日本國皇帝陛下及大清國皇帝陛下ハ均シク明治三十八年九月五日即光緒三十一年八月七日調印セラレタル日露兩國講和條約ヨリ生スル共同關係ノ事項ヲ協定セムコトヲ欲シ右ノ目的ヲ以テ條約ヲ締結スルコトニ決シ之カ爲メニ大日本國皇帝陛下ハ特派全權大使外務大臣從三位勳一等男爵小村壽太郎及特命全權公使從四位勳二等內田康哉ヲ大清國皇帝陛下ハ欽差全權大臣軍機大臣總理外務部事務和碩慶親王欽差全權大臣軍機大臣外務部尙書會辦大臣瞿鴻禨及欽差全權大臣北洋大臣太子少保直隸總督袁世凱ヲ各其ノ全權委員ニ任命セリ因テ各全權委員ハ互ニ其ノ全權委任狀ヲ示シ其ノ良好妥當ナルヲ認メ以テ左ノ條項ヲ協議決定セリ

第一條

清國政府ハ露國カ日露講和條約第五條及第六條ニヨリ日本國ニ對シテ爲シタル一切ノ讓渡ヲ承諾ス

第二條

日本國政府ハ清露兩國間ニ締結セラレタル租借地並鐵道敷設ニ關スル原條約ニ照シ勞メテ遵行スヘキコトヲ承諾ス將來何等案件ノ生シタル場合ニハ隨時清國政府ト協議ノ上之ヲ定ムヘシ

第三條

本條約ハ調印ノ日ヨリ効力ヲ生スヘク且大日本國皇帝陛下及大清國皇帝陛下ニ於テ之

ENCLOSURE NO.2 WITH MR. WILSON'S NO.370 OF JANUARY 12, 1906.

File with
#370
143

滿洲ニ關スル日清條約並附屬協約

AMERICAN LEGATION,
TOKIO.

SOLICITOR'S OFFICE
FEB 14 1906

No. 371. January 15, 1906.

INDEX BUREAU
RECD.
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1905
DEPT. OF STATE.

CHIEF CLERK
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DEPARTMENT
OF STATE.

Ans. Feb. 23

Mr. Huntington Wilson to Mr. Root.

Subject:- Outrage upon Mr. Taylor, an American citizen, by the Japanese military in Korea.

INDEX BUREAU
FEB 26 1906
FILED

DEPARTMENT OF STATE.

Second Assistant Secretary's Room.

MEMORANDUM. Feb. 17. 1906.

DIPLOMATIC BUREAU.

Mr. Smith

Ack. awaiting the Japanese reply to the Wilson's note. ~~It~~ It would also be desirable to know the character of the Jap. reply to the British protest against the treatment of Mr. & Mrs Weigall, who appear to have been the material sufferers, Mr. Taylor not having been injured, although molested and threatened without apparent justification.

A S G

AMERICAN LEGATION,
TOKIO.

No. 371. January 15, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to forward herewith copies of a note which I addressed to the Minister for Foreign Affairs on the 11th instant and of the correspondence from the Consulate-General at Seoul, upon which the note was based, on the subject of maltreatment of Mr. W. W. Taylor, an American citizen, by certain of the Japanese military in Korea. A summary of the case as stated will be found in the accompanying copy of the Legation's note. The second enclosure contains the statements of Mr. Taylor and of Mr. and Mrs. Weigall, British subjects, with whom he was travelling on business for the firm of Collbran and Bostwick.

It appears from these depositions that on the 4th December Mr. Taylor and his companions were journeying through the country near Heui Chieng in the province of Pyeng Yang. In the forenoon Mr. Taylor answered the questions of Japanese army officers, and at midday the party were questioned by Japanese soldiers, to whom their passports were shown, and who behaved with gross rudeness. The party then proceeded on their way but were overtaken by soldiers, treated with extreme violence, and taken back to the village where their passports had been demanded and shown. There they were examined by an officer in an exceedingly harsh and unwarrantable manner.

The

The experiences of Mr. Taylor and his companions, as narrated by them, were monstrous, and it is certainly to be hoped that after investigation the officer and the soldiers who may be found guilty of the preposterous conduct alleged will be severely dealt with. The military seem to have acted towards them not only with violence but in a most arbitrary and high-handed manner. I may add that there is a general impression that the Japanese army in Korea is inclined to an arrogant attitude and that this impression is confirmed by the reports of returning travellers.

A perusal of the various agreements existing between Japan and Korea affords no evidence that Japan has acquired or has ever sought to acquire any rights in Korea prejudicial to the status of foreigners in that country, and certainly Americans who travel in Korea, carrying proper passports, should fare as well now as they did formerly.

In the light of these considerations I thought it wise to bring this matter very earnestly to the attention of the Japanese Government with a view to strong measures for the prevention of a possible recurrence of similar trouble. On the 11th instant Mr. Kato verbally assured me that the case of Mr. Taylor was already under investigation, and I cannot doubt that all proper steps will be taken and that further departure from the good traditions of the Japanese army will not again be indulged in by any of the soldiery in Korea.

The British Embassy here is of course equally interested in this case and the Ambassador, with whom I have had several conversations on the subject, has taken the matter up very vigorously.

In Japan the ascendant of the military class is immemorial, and it was a very delicate matter for the Government to place the Resident-General over the commanding general at Seoul. Marquis Ito's selection as the first Resident-General

General is undoubtedly due in a great measure to the fact that he was thought the one civil official of sufficient authority to hold the post without friction and so successfully initiate the new régime. The Residency-General will be opened on February 1st, when the Japanese Legation and Consulates are to be withdrawn. The presence of Marquis Ito at Seoul is confidently looked to as a restraint upon the military and as a check upon the truculence of the baser sort of Japanese, who unfortunately are numerous among those who have immigrated to Korea.

I shall hope to have the honor to inform you of such reparative measures by the Japanese Government as shall in future safeguard Americans in Korea from any such deplorable experience as Mr. Taylor seems to have had.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

closures:

1. Correspondence from Mr. Paddock, Consul-General at Seou
2. Mr. Wilson to Mr. Takaaki Kato, January 11, 1906.

Enclosure No. 1 with Mr. Wilson's No. 371: of January 15, 1906.

No. 1. A. L. T.

AMERICAN CONSULATE GENERAL,

SEOUL, KOREA.

January 5, 1906.

Huntington Wilson, Esquire,

American Charge d'Affaires,

Tokyo, Japan.

Sir:-

I have the honor to hand you enclosed a copy of the statement of Mr. W. W. Taylor, an American citizen, complainig of indignities and treament apparently threatening to his life, which he suffered at the hands of Japanese officers and soldiers when travelling recently in the interior of northern Korea. Mr. Taylor was travelling at the time with Mr. A. R. Weigall, a British subject, who was accompanied also by his wife, on a trip for the purpose of examinig mining properties, and the party was provided with passports and other papers establishing their identity. Mr. Weigall, a copy of whose statement together with that of Mrs. Weigall I enclose, has laid this matter before Mr. H. Cockburn, the British Charge d'Affaires at Seoul, and the latter has addressed Mr. Hayashi, the Japanese Minister here, on the subject, and has also transmitted copies of the Weigall statements to the British Legation at Tokyo. On consultation with Mr. Cockburn I have also addressed a note, a copy of which I enclose, to Mr. Hayashi. Mr. Cockburn has in confidence shown me Mr. Hayashi's reply to his communication, with which he expresses himself as dissatiafied. The reply says in effect that both Mr. Hayashi and General Hassegawa, Commander-in-Chief of the Japanese Military Forces in Korea, deeply regret the occurence, but that doubtless irritation existed on both sides, and that, if it is admitted that

Japanese

Japanese forces have a right in Korea for the purpose of policing the country, foreigners should not object to being requested to give information as to their names, business, destination, etc., as they feel a "moral responsibility" to protect foreigners in the interior. I enclose also a copy of Mr. Weigall's reply to Mr. Cockburn, received confidentially, on being informed of the Japanese Minister's answer to his charges.

I may say that this would seem a good opportunity to determine what treatment foreigners travelling in the interior may expect to receive at the hands of the Japanese military, as this, though perhaps the most grave, is by no means the only case of the kind that has come to my knowledge.

In conclusion I beg to say that I have just received the statement of Mr. Taylor, who has been taken ill on his way back from the north and is still detained in a hospital at Pyengyang.

I acknowledge and confirm your telegram received this morning, and confirm my reply, as follows:-

"Paddock, Seoul"

"Please forward to this Legation the statement of Taylor and also copy of Weigall deposition"

"Wilson".

"Amlegation, Tokyo",

"I will forward the pepers today Taylors statement is just received, he being in hospital Pingyang".

"Paddock".

I am, Sir:-

Your obedient servant,

Gordon Paddock.

Enclosure:

Five, as above.

Enclosure. 1.

Pyeng Yang, Dec.30th, 1905.

The following is a brief recital of the treatment accorded MR. d Mrs Weigall, and myself (W. W. Taylor) by Japanese soldiers d officers on the 4th. day of Dec. 1905 at Heui Chieng and ighborhood, in the Pyeng Yang Do Province.

The above mentioned party was sent out from Seoul on Nov. 29th, 05 to examine mining properties in the above mentioned province.

On the morning of the 4th, at the river crossing forty li from ni Chieng, I met two Japanese officers, who were evidently in mand of the troops who were then crossing the river. Through a panese speaking Korean, I was asked the following questions, the s me being also asked concerning Mr. and Mrs. Weigall who were some stance ahead: All were answered readily and to the best of my owledge. Name? Age? Home? Destination? Nationality? Business? One the officers who asked these questions spoke English fluently, as afterwards travelled some distance with me carrying on a conver- tion in English. This morning we kept passing Japanese soldiers, charge of supply trains, but in no way were we molested, or d they try to stop us. It was about noon when we reached the city Heui Chieng, and some time was spent in locating a stable which s not filled with ponies that had come in loaded with Japanese y supplies: but this was finally overcome and we found one tuated on the main street.

Our rooms were next to each other, with sliding paper doors tween, so any conversation could be heard, or any happenings uld be seen by either party. We had not been in our rooms long, en a Japanese without knocking or giving any signal whatever , threw door open and commenced to speak to me in Japanese. I not under- anding what he wished pointed to the next door, which was the tside door of Mr. and Mrs. Weigall's room. The same performance s repeated, and the soldier, and Mrs. Weigall, who speaks some

Japanese carried on a conversation, which I could not fully under-
stand. This soldier, who from the mark on his overcoat, was a
non-commissioned officer left, but in his stead returned another of
the same rank. This last officer in his manner and actions was
most insulting and overbearing having even after the passports had
been shown him , he made a lunge towards Mr. Weigall trying to
secure a package of private letters which Mr. Weigall held in his
hand. Mr. Weigall stepped in from the doorway , where he had b een
standing, closed and bolted the door, the officer trying to force
the door open, but later on desisted without accomplishing his object.

We had been delayed several hours and up to this time had not
been able to eat our Tiffin, so I gave orders to the pony man
ready with the Ponies" as we would start immediately after Tiffin"
During the time were eating Tiffin a guard with sidearms were station-
ed at our door, who immediately upon our start ran off at top speed
to headquarters to inform their superiors that we had started, at
least events pointed that way later on.

In passing through the city we were in no way molested, and had
crossed the river and proceeded on our way some distance before we
heard three soldiers in our rear shouting "Yobo, Yobo". The pack
train was on ahead was not stopped until they had reached the foot
of the pass seven li out from Chuui Chieng. It was now almost dark
and we had been anxious to reach an inn before it becams too dark
to travell. I being the last in the party was the first whom the
Japanese soldier, who was in the advance of the others, met, and
it was only by leaning to the side that I saved myself from being
run through by his bayonet, while I sat on my horse. Mr. and Mrs.
Weigall had by this time dismounted, they in turn being met by this
same soldier, who was most terribly excited. With bayonet fixed
he held his gun close to Mrs Weigall striking her full in the chest
with his closed fist when she moved. Upon Mr. Weigall walking up
to where his wife stood, the soldier threw the breech of his gun
open, put in a cartridge and kept the gun leveled at them during
the time Mr. Weigall wrote out a statement of the happenings. This
was given to me to sign, which I did with the Japanese soldier's gun
pointed at me. I fully believe that had not one of his companions

o had by this time arrived on the scene prevented him, he would ve shot Mr. and Mrs. Weigall. During these happenings I was ated on my horse, and no move had been made by either of us at could have justified this treatment. We were informed that would have to return to Heui Chiong, so the pack ponies were rned around, Mr. and Mrs. Weigall were marched off ahead under cort of the Japanese soldiers who first met us, who during the me they were in my sight kept his bayonet close to their backs. e remaining two soldiers took charge of me and the pack train, is being the way we marched back through the city. Along the road the return we kept coming up to soldiers who had been sent out reinforcements, some having been sent out across country to t us off .

By the time we reached it was dark and cold, but this did not event them from parading through the streets under guard for a lf hour, before they finally brought me to the building where minals are tried. After about ten minutes wait I was joined by officer, who later turned out to be the judge who was to try us. ter some time Mr. and Mrs. Weigall were brought in under heavy rd. After a conversation in Japanese between Mr. Weigall and e officer the trial commenced, the officer speaking to his interpre- , who translated the questions into Korean to our cook who aks English, he in turn talking to Mr. Weigall. Mr. Weigall te all questions and answers down. I am ready to swear that they correct. The interpter spoke most rudely about Mrs. Weigall, the officer's manners throughout the trial, was the direct posite from that becoming an officer. The officer's rank was ther that of a Lieutenant or a Captain. On his collar was 88 brass numbers. The weather being most severe and the building ng an open one our hours stay here was most disagreeable, but the matter seems to me to be a case to show the Koreans their thority by practicing on foreigners, this evening Open air trial vered the purpose admirably. The above is a true statement as

to facts as I have seen them, and to which I am ready to swear.

(Signed) W. W. Taylor.

Enclosure - 2-.

Statement of Arthur Raymond Weigall.
Mining Engineer in the Employ of Messrs. Collbran and Bostwick, of Seoul, Korea.

I was travelling with a party consisting of my wife, myself and an assistant named W. W. Taylor, and three Korean servants, examining mining properties in North Korea. I arrived with my party at Heui Tchieng in Ping Yang Province, North Korea, about noon on Dec. 4th, 1908. We put up in this town to have tiffin and to feed our pack ponies. Shortly after our arrival a Japanese soldier came in and asked us the nationalities of our party. This I told him. He then asked me several more questions such as " the port I landed in Korea etc." which I answered. He then proceeded to put a long string of questions to me . As I have been continually stopped and questioned in this manner, apparently by any irresponsible soldier who comes across me , I asked him to excuse me as I wanted to finish tiffin and get away. He then left.

Shortly after another soldier burst into the room where my wife and I were sitting and without ceremony proceeded to question me. His manner was most rough and insulting and he used the lowest form of language in addressing me , for instance when he inquired who my wife was, he pointed at her with his foot and said "Who is that thing" (Ano). I told him we were British and American subjects travelling peaceably with proper passports and we would not submit to be treated in this disgusting manner. I asked him what authority he had for insulting us like this, who had sent him or had he just come in here on his own initiative. He refused to give any satisfaction on that point beyond telling me to answer his questions. I repeatedly asked him if any one sent. He only replied "Saka na koto". I told him unless he could tell us what authority he had for breaking into our rooms and insulting us I would answer no further questions . He continued to question us- I told him my age was 64 and I generally resided at Bukingham Palace when I was in London-

He asked for our passports- I told him unless he would tell us his authority it was no use to question any further. He then said he had been sent by his officer and ordered to ask such questions. I said in that case I would unpack our passports and at the same time told him I did not reside at Bukingham Palace nor was I yet 64. He asked a great many more questions to all of which I replied. I asked him his officer's name and regiment- he refused to give it. By this time a lot of soldiers and Koreans had collected around our house. I called the cook to interpret through a Korean interpreter who accompanied the soldiers. I told him I wanted to know the name of the man responsible, so that on my return to Seoul I could report the matter to the Japanese Legation. He said to show the passports first. I said very well and asked him to go outside to give us room to get our boxes in . I unpacked my papers and went out on the verandah and handed the soldiers, first my registration paper from the British Legation. This was passed around but apparently no one could read it and it was handed back. I then gave them my Korean passport - this also was no use, apparently they could not read the Chinese characters. In the same pocket with my passport were several other papers and letters. The soldiers demanded these. I told him they were private letters and that I would not show them . They tried to snatch them out of my hands.

I put them in my pocket and went back quickly into the house. Several soldiers made a run at me as I went but I jumped inside and shut the door. They tried to push it in for a short time and then desisted and called out to bring out my passport. I took no notice beyond replying once that what they had seen was a passport. As they said it wasn't I wrote a short note saying I had produced my passport, which I asked Taylor and my wife to witness. We then packed up and left the town without further molestation.

When we had gone about two miles about west, we heard yells of "Yobo Yobo" and saw three Japanese soldiers running after us. I concluded as the first lot couldn't read the Chinese characters of the passport, there were others more educated to have another look at them. I got the passports out of my pocket ready for them. As it was late and we had been already delayed and had a long way to go to the next stable, I did not see my way to stop the whole pack train (of eleven ponies) so ordered the muffoos to keep on. I continued ri ding slowly at rear of the pack with my wife and Taylor. At the foot of a steep hill, a little way further on (about 2-1/2 miles from Heui Tchieng) we dismounted to walk. Taylor continued riding behind us. Just then the first Japanese soldier caught us up . He ran past Taylor and my wife and caught me by the arm- I stopped- the second then made a lunge at Taylor with his gun, on which he had fixed his bayonet. Taylor escaped by throwing himself back on his horse, the bayonet passing a few inches from his body . This soldier ran on a swung my wife around by the arm. She shook off his hand whereupon he hauled off and struck her a violent blow full in the chest which sent her staggering back a few paces. I made a rush to get in between the soldier and my wife and with the intention of knocking down the soldier who I then perceived was frensed with rage and had completly lost control of himself. Taylor who was still sitting on his horse called out" For God's sake dont touch him". I kept my hands down and did not touch him. As I rushed at the soldier he swung round to meet me and threw back the breech of his gun . I shouted at him what the devil do you mean by striking a woman . My wife called out "Oi he's going to shoot!" As the soldier levelled his gun at me my wife threw herself in between us. His comrad made a rush at him as he put up his gun at me, yelling "Ikenai". The soldier lowered the but of his gun keeping the muzzle pointing at us a few inches away. After some seconds he let back some fixing in the breech . I suppose unbocking it.

I solemnly declare that but for his comrade's interference, I believe this man would have shot us. As it happened I still had my passports in my hand . I suppose he lost his temper because we did not stop when he called "Yobo Yobo".

I called the pack train to return and made a rough note of the occurrence which I handed to Taylor and my wife to sign, and afterwards handed to her for safe keeping. During all this time the soldier threatened me with his bayonet.

I signed to the soldier we were ready to start and we were then marched back to the town , my wife, my boy and I being marched on ahead. While we walked the soldiers carried their guns over their shoulders, but threatened with their bayonets if we stopped- for instance to light a cigarette. On the way back to the town we were met by several other soldiers. We were marched through the town and halted in the street outside the magistrates quarters and kept there 35 minutes. It was a cold frosty night, the ground was frozen hard and the gutters covered with ice. My wife felt the cold severely. She had taken off her furs and put them on her horse when she got off to walk the hill, just before the Japanese caught us up. I asked the soldier guarding me if he would allow my boy to go back and get wraps. He said "Ikan". I told my boy to call out to one of the crowd of Koreans who surrounded us, to go and get a rug. He started off but the Japanese caught him

and kicked him. During all this time the soldier guarding us kept his bayonet pointed at us . There were several other soldiers standing near by. One of them walked up and relieved himself infront of my wife and about five feet away from her.

At 5.50 P. M. we were marched into a big open shed which I am informed is the place where criminals are tried, outside of which we saw all the pack train . Inside we met Taylor who was surrounded by soldiers with fixed bayonets. An officer was present wearing a khaki colored uniform with a red collar bearing the number 58. I asked him who he was and what business he had to arrest us. He asked me why I wanted to know who he was. - I said in order to report him to his legation. He said he was the officer in command of this district and proceeded to question me . All the time we were surrounded by bayonets, one being held at my back a few inches off, during the whole proceeding . I told the officer I could not speak Japanese very well and as I regarded the matter so seriously, it would be better to call an English interpreter. He said he had none, I must go on in Japanese. I asked him if he had ordered his men to bring us back . He said he wished to find out every thing about us and that was why he had arrested us . I asked if he had ordered his men to strike a lady. He said "who struck her". I pointed to the man guarding me . The officer asked him did he strike my wife- the man replied "no". The officer turned to me and said I was a liar(Useda). He then asked me why I did not show my passport. I said I had . He pointed to the first man who had called on us and asked me if I had shown my passport. This man replied to the officer " no he did not show it to me but to him" , pointing to the second man , who had come to our house. The officer asked this second man had he been shown our passports , he said"no", and the officer again turned to me and told me I was a liar. I said there were about fifty people present when I showed it and it was handed around among eight or ten soldiers, all of whom saw it- The officer said "Everything you say is lies (Mina uso da) I said alright- but as this conversation was not getting on much I would speak through my English speaking Korean cook to his Japanese speaking Korean, and would write down everything which my wife and Taylor would witness- The following verbatim report of the examination as interpreted by the cook.

Cook- He wants to know where you come down this time, or where we sleep all this time , which inn you sleep at?
Me - From Pyeng Yang to Sa Gai Mak -
Cook - Let me know, first you leave Seoul, what day, sleep where?
Me- We left Seoul by train 30th November.

(There was a conversation in Japanese between the officer and his interpreter.
The officer said it was no use my writing in English. I must write in Japanese.)

Me- Tell him I am going to keep this paper. He has alrtady called me a liar. He says everything I say is lies.
Cook- When you first come Korea, where did you first land?
Me- At Fusan.
Cook- What day, what month you land?
Me- Third month about 28th. not sure at date. I think date-
Cook- Where have you been around to this country?
Me- Does he want the provinces?
Cook- Yes.
Me- First Keung San Do.
Cook- Never mind Keung San Do.
Me- Seoul.
Cook- He wants to know every place you have been.
Me- This trip?
Cook- Yes.

Me- Ping Yang To Sa Sul Muk. Then- we dont know every place and district.
Cook- He says never mind to write.
Me- We went from Sa Sul Muk to Mer Tol Pol, Then Nam Chung- then Pek Dilly, then-
Cook- What is your name ?
Me- Weigall.
Cook- What is the lady's name?

(Here the interpreter evidently made some insulting observation. I did not understand what he said , not knowing Korean- It was evident that it was something insulting from the interpreter's manner and that of those standing around. My wife noticed it and said, "Mr. Taylor, what is that man saying about me"- He replied "Nothing very nice" I asked my Korean boy if my wife was being insulted. He said "Master must kill that man , it is number one bad insult in Korean. Suppose he say that to Korean lady then sure Korean man must kill him.")

Me- Mrs Weigall.

(Here some more jokes were made which I did not understand).

Cook- How old are you?
Me- 33.
Cook- What is his name?
Me- Mr Taylor.
Cook- How old is Mr. Taylor?
Me- 29.
Cook- What business do you come here?
Me- To see mines.
Cook- Where do you go now?
Me- To Muk Sam Dong.
Cook- He says we want to find out something. I send a man down to you and enquire, you say 34 years ago. He thought very strange so he send him again.
Me- When I told him 34 I told him I was joking.
Cook- He says we are just beginning to find out everything, how can you be joking.
Me- What is he going to do about it?
Cook- Then let me see again your passport.

(Two passports handed to the officer who examined them very carefully and handed them back.)

I then told the officer as well as I could in Japanese- I consider a very serious outrage has been committed on us and I warn you that on my return to Seoul I will report the matter to the British Legation. He said "Which soldier struck you", I replied, it was my wife , not me he struck. He said it was a lie and no one saw it. I said I saw it and all of us have seen it . I then asked him why he allowed his interpreter to insult a lady. He replied "Mina upo da" (all lies) and said Ttto (go)- We then left- we stayed all night in Heui Tchieng unmolested and left next morning- My wife was suffering from shock, the effects of the blow and a severe chill, but was able to continue her trip.

I solemnly declare that the above is a true and complete account of the outrages committed on us at and near Heui Tchieng on December 4th. 1905.

(Signed) A. R. Weigall.

Date Dec. 23rd. 1905.

Enclosure - 3-.

Statement of Mary Maude Weigall:-

Concerning the outrages and insults put upon us by Japanese soldiers at and near Hsui-Tehsing on Monday, 4th December, (1905.

Just as we had commenced tiffin at Hsui-Tehsing a Japanese soldier came and interviewed my husband in Japanese. My husband translated the conversation as it went on and informed me that in reply to the questions of the Japanese he had stated the names and nationalities of the party. And in reply to a further string of questions my husband asked him to go away as we wanted to finish tiffin- He went away- Just as we had finished tiffin, another soldier burst into the room and began questioning my husband in a rude and offensive manner. He asked my husband's nationality - My husband replied British. If you are English, where is your home in England? My husband laughed and said we generally resided at Buhingham Palace London and wrote it down for him . He then asked my husband his age- He replied 34. All this time the man's manner was indescribably offensive. My husband now called in our Korean cook as interpreter, and I was able to follow the conversation. My husband gave him our names and nationalities and told him in reply to his question, as to where he had just landed in Korea. He then asked what month. March. What day in March? My husband was not able to give the exact date, which appeared to make the soldier more angry, as his manner became still more violent. The soldier then asked for our passports . My husband told him that we were just ready to start and it would take some time to unpack them , and asked what authority he had for demanding our passports. He answered rudely that it was no business of his and proceeded to again ask for our ages. My husband then told him that unless he could tell him what authority he had to ask these questions or who had sent him there, he would refuse to answer any more- and told him that he could not be bothered answering the questions of every Tobe in the streets. The soldier said why do you want to know my authority. My husband answered because he had been so insulting that he wished to report the matter to the Japanese Legation upon his return to Seoul and to be able to give the name of the man responsible for it. The soldier replied that he had been sent by his General , whereupon my husband said he he would show him the passports if he would give his General's name. The soldier said he would when he had seen the passports. So my husband asked him to go outside while he unpacked . My husband then handed him a passport from the British Legation, which after being handed around amongst the soldiers collected, was returned as no good. My husband then gave him what I understand is a Korean passport which also they returned as no good.

The soldier then demanded some other papers which my husband had in his hand, when my husband refused, he snatched at them. My husband put them quickly into his pocket and came quickly back into the room - shutting the door behind him. The soldiers pushed and hammered at the door for a few seconds and then desisted. After a few moments my husband opened the door and said to the Japanese, These papers (holding his passports in his hand) are true passports and every thing I have said to you is correct, with the exception of my residence in England and my age, both these remarks were made as jokes, Buhingham Palace is the residence of the king of England. My husband then wrote a short statement (after again offering the passports, which they refused) saying he had shown the Japanese soldiers his passports, which statement he asked Mr. Tayler and me to sign. This we did. We packed and started without any further interruption.

We had ridden about two miles when heard cries of "Tobo" behind us and saw three Japanese soldiers running after us- we did not stop. At the foot of a steep hill the Japanese caught up with us. The first ran past Mr. Taylor and me and caught my husband by the arm pointing back to the town. Then the second soldier inpassing me caught me roughly by the arm and swung me around I threw off his arm and said "How dare you touch me" By this time he was a couple of paces in advance of me, and turned and struck me in the chest with his fist. My husband rushed at him as though he would strike him. Mr. Taylor called out "For God's sake don't hit him". My husband stopped and yelled at him asking him what he meant by striking a woman. The soldier muttered something and cocked his rifle and was levelling it at my husband, with the bayonet a few inches off his body . I saw that the man was mad with rage and had completely lost control of himself and I swear that I absolutely believe that if the first soldier, who was standing almost beside him, had not rushed at him and caught his arm , saying something in Japanese, he would have fired. My husband immediately took out his pocket book and wrote a short account of what had happened. For a full minute the soldier kept his rifle levelled at my husband's body. Then he did something to his rifle/I presume he was uncocking it, but during the whole time my wrote he threatened him with his bayonet. When Mr. Taylor and I had signed the statement we were marched back through the town. Once when we stopped the bayonet was again levelled at our bodies. We were kept standing in the street exposed to the cold for over half an hour- and to be the gaze of a crowd of Koreans. The soldiers (several had collected) refused to allow anyone to get me a wrap.

We were then taken to an open shed, where Mr. Taylor was waiting for us. An officer began to question my husband- during the examination the interpreter to the Japanese, began to point to me and make remarks, which were received as very funny by some of the bystanders. By the expression and gestures of the man, I was so sure that I was being insulted that I said to Mr. Taylor "You understand Korean, what is that man saying about me?" Mr. Taylor replied, "Nothing very nice". Our boy Cho, said to my husband "Master ought to kill that man for the things he says about Mrs"- It is a very bad insult". After over an hours examination , during the rest of which time a gun with fixed bayonets was pointed a few inches off our backs, and we were surrounded by soldiers. We were told that we could go. During the examination the cook was interpreter and the Japanese officer repeatedly called my husband a liar. So that my husband wrote the concluding part of the examination down in front of Mr. Taylor and me.

(Signed) Mary M. Weigall.

Enclosure 4.

No. 1. L. C.

AMERICAN CONSULATE GENERAL,

SEOUL, KOREA.

January 5, 1906.

Monsieur le Ministre:-

I regret to have to lay before you a complaint by Mr. W. W. Taylor, an American citizen, of indignities and treatment apparently threatening to his life, which he recently suffered at the hands of certain Japanese officers and soldiers, when travelling in the neighborhood of Heui Chieng, in Pyeng Yang Do Province.

Mr. Taylor was at the time accompanying Mr. A. R. Weigall, a British subject, on a trip for the purpose of examining certain mining properties, and the party was provided with passports and other papers establishing their identity.

I understand that Mr. Weigall, through the medium of the British Representative in Seoul, has already brought this matter to Your Excellency's attention, and Mr. Taylor's statement, a copy of which I have the honor to hand you enclosed, would have been transmitted to you earlier were it not that the latter is sick and confined to a hospital at Pyengyang.

In laying this matter before Your Excellency I beg to say that I do so with confidence that, upon investigation, those found guilty of the conduct complained of will be dealt with by the proper Japanese authorities in such manner as the occurrence would seem to merit, and which will, I trust, as an example prove a safeguard to those of my nationals who may hereafter have occasion to travel within Korea on their legitimate business.

Under existing conditions it will be necessary, of course, for me to lay the matter before the American Legation

Legation at Tokyo, but I feel that I should first bring it to Your Excellency's attention here.

I avail myself of this opportunity to renew to you, Monsieur le Ministre, the assurance of my highest consideration.

(Signed) Gordon Paddock.

His Excellency

Monsieur G. Hayashi,

H. I. Japanese M's Envoy Extraordinary

and Minister Plenipotentiary,

etc. etc. etc.

Enclosure:

1./ Statement of Mr. W. W. Taylor.

Enclosure 5.

5th January 1906.

His Excellency,

The British Minister Resident,

Seoul, Korea.

Sir:-

I have the honor to acknowledge the receipt of your letter dated January 4th, 1906, for which I thank you.

I have carefully noted the contents of your letter and venture to say that surely neither General Hasegawa nor the Japanese Minister can realize the seriousness of our treatment by the Japanese troops on December 4th at Hein Chon.

I beg to say that both Mrs. Weigall and myself refuse to accept the expression of regret offered by General Hasegawa and the Japanese Minister as an acceptable settlement of the case.

Not only were gross indignities inflicted upon us but it was very nearly a question of life or death and we hope that having laid all particulars before you our position in declining to accept the apology offered will not meet with your disapproval.

I have the honor to be, Sir,

Your obedient servant,

(Signed) A. R. Weigall.

Enclosure No. 2 with Mr. Wilson's No. 371. of January 15, 1906.

American Legation, Tokyo.

No. 203. January 11, 1906.

Monsieur le Ministre:

When I had the honor today to mention to Your Excellency the report that Mr. W. W. Taylor, an American citizen, had suffered outrageous treatment at the hands of the Japanese military in Korea while he was travelling on business in the company of Mr. and Mrs. Weigall, British subjects, Your Excellency told me that the affairs had been represented to you by the British Ambassador and at the same time informed me that while you were not yet in a position to express an opinion, I might be assured that the matter was under the carefull investigation of your Government.

Owing to delay due to Mr. Taylor's illness in hospital at Pyengyang, his statement, transmitted to me by the Consul-General of the United States at Seoul reached this legation only last night. For Your Excellency's fuller information I have the honor to give below the gist of the case as represented.

On the morning of December 4, as Mr. Taylor journeyed towards Heuicheng, following after Mr. and Mrs. Weigall and their train of pack ponies, he was questioned by two japanese officers and answered in regard to himself and also the members of the party who had gone on ahead. During the mid-day halt at Heuicheng the party's quarters were successively broken into by two Japanese soldiers with many questions to ask. The second of these unceremonious visitors, to whom the passports were shown, was ruder and behaved in a more obnoxious manner than the first. After this experience

To His Excellency Kato Takaaki,

etc. etc. etc.

experience the party resumed their journey unmolested. They had already been so delayed that it would be difficult to reach the next inn before night-fall. Mr. Taylor was riding in the rear of the train when shouts were heard from behind them. Presently first of three Japanese overtook him and it was only by leaning to one side that he saved himself from being run through by the bayonet. Later the soldier also pointed his gun at him as he sat in his saddle. Mr. Taylor, with the pack train, was then taken back to Heuicheng under guard, and, after being led through the streets, was taken to a structure where criminals are tried. After some delay an examination was conducted by a Japanese officer. This closing scene lasted about an hour in the cold of the winter evening and appears to have been accompanied with much discomfort and public humiliation.

From an examination of Mr. and Mrs. Weigall's statements, which have been put in the possession of this legation by our Consul-General at Seoul, I find that in the day's events Mr. Taylor played a less conspicuous rôle than did his companions; yet as a fellow traveller of Mr. and Mrs. Weigall he was involved and suffered perhaps equally in all that befell them in addition to his own treatment. Mr. Taylor himself had no interviews with the soldiers nor words with the officer at the examination, although he testifies to the unbecoming conduct of the latter.

Mr. Taylor fully answered the questions of Japanese army officers in the forenoon. At midday his passport was at the disposition of Japanese soldiers. In the afternoon he waspursued by Japanese soldiers and suddenly lunged at the bayonet from behind. Then a Japanese soldier leveled his gun at him. Next he was arrested, led through the

streets

streets of a Korean city, and kept prisoner during an examination, held publicly in the open and conducted by a Japanese army officer in a manner inexplicable except on the theory of complete indifference to the degree of hardship and public humiliation he might inflict.

Thus the American citizen, peaceably travelling in a friendly country where he has full treaty rights, carrying the required passport, is subjected to violence and indignity by the soldiers of a third country.

It is quite unnecessary for me to say that I place the most complete reliance upon the assurances which Your Excellency did me the honor to give me this afternoon, and I wish to add that I have no doubt whatever that any occurrence such as the one under discussion would be as much deplored by Your Excellency's Government as by my own. I feel sure therefore, that the Imperial Japanese Government will, after investigation, take measures so strong as to preclude the possibility of recurrence of any thing of the kind.

Reserving for the consideration of my Government the question whether the Japanese military possess in any case the right to stop or interrogate Americans travelling in Korea, I cofine myself in this instance to the subject of methods employed. I am sure Your Excellency will agree with me when I insist upon the pressing need of measures on the part of the Imperial Japanese Government which shall effectually safeguard Americans in Korea not only from the possibility of violence but from inconsiderate and vexatious treatment at the hands of Japanese officers or men.

I avail of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Huntington Wilson.

RECEIVED JAN 18 1906 DEPT. OF STATE

TELEGRAM RECEIVED IN CIPHER

BUREAU OF APPOINTMENTS JAN 18 1906 Department of State.

Secretary of State. JAN 18 1906

From Tokio January 17, 1906.

Rec'd. January 18, 1906.

5:39 A. M.

Oct 2 Jan 19

Secretary of State,

Washington.

January 17, - 9 P. M. I am sure Wright will be accepted. The Japanese Government's delay in answering is due solely to routine formalities. I am expecting reply in a day or two.

WILSON.

INDEX BUREAU JAN 22 1906 FILED

phered by S. H. Q.

, 190 , M.

HER CABLE.

RECEIVED AND TRANSLATED

Jany. 18,1906, JMGI.

The White House,

Washington.

Secretary of State, JAN 19 1906

TOKYO.

The Secretary of State,
Washington.

January 18. Minister for Foreign Affairs asks me to inform you that the Japanese will be glad to receive General Wright as ambassador.

Wilson.

INDEX BUREAU FEB 2 1906 FILED

TELEGRAM RECEIVED IN CIPHER

Secretary of State.
JAN 18 1906

BUREAU OF APPOINTMENTS
JAN 18 1906
Department of State.

RECEIVED
JAN 18 1906
DIPLOMATIC BUR. DEPT. OF STATE.

ack. Jay 19

From Tokio

Rec'd. January 18, 1906.

1:04 P. M.

CHIEF CLERK
JAN
18
1906
DEPARTMENT
OF STATE.

Secretary of State,

Washington.

January 18th, 5 P. M. Minister for Foreign Affairs asks me to inform you that His Majesty The Emperor of Japan, will be glad to receive General Wright as Ambassador.

WILSON.

INDEX BUREAU
JAN 20 1906
FILED

Ciphered by C. R. D.

, 190 , M.

RECEIVED
FEB 14 1906
DIPLOMATIC BUR. DEPT. OF STATE

AMERICAN LEGATION,
TOKIO.

No. 372. January 18, 1906.

INDEX BUREAU
RECD.
FEB 13 1905
DEPT. OF STATE

To H.B. Campbell, Feb. 15, 1906
Acted, Feb. 16, 1906
D.C.

CHIEF CLERK
FEB 15
DEPARTMENT OF STATE.

To Dept. of Com. & Labor, Feb. 16 C

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Port Arthur properties of Americans.- Permission to investigate on the spot finally granted.

INDEX BUREAU
FEB 20 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 372.

January 18, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

When I had the honor to report to you on November 22 the results of this legation's efforts to gain permission for Americans to investigate their properties temporarily abandoned at Port Arthur and Dalny at the outbreak of the war, there was ample ground for the expectation that the interested parties would be allowed to visit those places early in December.

At an interview which I had at that time with the Vice-Minister for War, he implied that an occasional traveller might be permitted to visit Port Arthur, but that the confusion there was still too great to admit of the coming of business men to look after their affairs. General Ishimoto finally gave permission, under date of November 25, for Mr. Dunn, the Agent of the American Trading Company, to visit Port Arthur from December 1, but only in the quality of an ordinary traveller. In granting this permit the War Office stipulated that no others of the sort would be allowed. Mr. Dunn's name was selected by me for the reason that his Company's application was the one filed earliest at the Legation. While the permit did not carry with it facilities for investigation, yet the opportunity for their agent at least to look over the ground was much valued by the American Trad-

ing

ing Company.

Since the beginning of December the Legation has frequently inquired as to when the Americans interested might proceed to Port Arthur, but on each occasion the date has been postponed, and the need of time for making regulations and arrangements has been put forward. On the 21 ultimo I represented the whole matter to Count Katsura, Premier and Acting Minister for Foreign Affairs, with similar results. The same day I received an informal letter from the Ministry of War asking for still more time, and wherein it was stated that a committee to take charge of the abandoned properties was about ot be formed under the commanding general of the occupied districts, and that the owners of property would be allowed to go to Port Arthur before long.

No change having taken place in the situation, I verbally brought the matter to the attention of Mr. Kato on the 11 instant, and on the 13 instant addressed to his Excellency a note on the subject, wherein the desired permits were specifically requested for Messrs. Nielsen(representing Clarkson and Company), Friede, and Toritch, I have the honor to enclose a copy of the above-mentioned note. Accompanying it will be found an informal memorandum of the communications on the question under discussion which passed between the Legation and different officials of the Japanese Government during the past half year.

On the 17 instant I received an informal note from the Minister for Foreign Affairs, a copy of which is herewith, whereby I was informed that it had been decided to give permission to visit Port Arthur and Dalny and that the restrictions would shortly be removed. The following morning I called at the Foreign

eign Office and obtained these particulars:- The Military Commander of the Kwantung would issue the new regulations in a day or two; he would then telegraph the War Department, who would thereupon be ready to grant the long sought permits, upon application made through the Foreign Office. The official whom I saw was of opinion that the permits would now be available within four days, and I am happy to be able to report that I am quite confident that the Americans interested may go to Port Arthur and Dalny next week.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURES: 1. Mr. Huntington Wilson to Mr. Kato, January 13, 1906, (with sub- enclosure)

2. Mr. Kato to Mr. Huntington Wilson, January 17, 1906.

ENCLOSURE NO.1 WITH MR. WILSON'S NO. 372 OF JANUARY 18, 1906.

No. 204. American Legation, Tokyo,
January 13, 1906.

Monsieur le Ministre:

I have the honor to request that at the earliest possible convenience of the Imperial Japanese Government permission may be granted Mr. C. Nielsen, representing the American firm of Clarkson and Company, Mr. M. S. Friede, Mr. W. Toritch, American merchants, to visit Port Arthur and Dalny for the purpose of personally examining their properties left at those places at the outbreak of the war.

As I had the honor to point out to Your Excellency day before yesterday, there is great danger that by every day's postponement of such permission these gentlemen will be placed in a less favorable position for the ultimate recovery of their property or its value. Moreover it is evident that they are suffering injury by being deprived during so long a time of the use of their property and by the tying up of their affairs in an indeterminate state which they are prevented from investigating. It will thus be seen that very considerable damage is being done American merchants.

It is beyond doubt that at the present extremely late date no plea of military necessity would be seriously advanced

To His Excellency
Kato Takaaki,
His Imperial Japanese Majesty's
Minister for Foreign Affairs.

advanced as a reason for ~~future~~ further withholding the permission sought, and I most respectfully express to Your Excellency my disappointment that consideration for the American property rights involved should seem to weigh so lightly in the scale against what can now, so far as I know, be no more than the bare convenience of routine arrangements by the military authorities,-- arrangements for the completion of which many months have already been available.

So long ago as November 21 General Ishimoto, Vice-Minister for War, answered my inquiries by asking that we wait a little longer,-- about two weeks longer he thought. Naturally much importance was attached by this legation to an estimate emanating from such a quarter, and my Government, as well as the interested parties, was accordingly given to understand that permission to visit Port Arthur might be expected early in the month of December. Inevitably the long additional delay has caused surprise and disappointment.

I am informed that the continued delay is due to a change in the arrangements decided upon by the Ministry of War. It is difficult, however, for a civilian to understand what embarrassment could result if ~~to~~ a few men, whose material interests are at stake, were allowed to go into Port Arthur before the perfection of the last details of such arrangements.

In order that Your Excellency may see how continuously and since how many months this legation has been seeking the permission in question, and how much patience has been necessary on the part of those interested, I beg leave to hand you herewith an informal memorandum summarizing the communications between officials of Your Excellency's

lency's Government and this legation during the past half year. The earlier correspondence in regard to American property at Port Arthur was recapitulated in the Legation's memorandum dated July 15.

If Your Excellency will permit me to repeat what I had the honor to say to you on the 11 instant, let me once more earnestly request that Your Excellency spare no effort to have the desired permits for the above-mentioned gentlemen to visit Port Arthur and Dalny issued with the least possible delay.

I embrace this opportunity to renew to Your Excellency the assurances of my highest consideration.

Huntington Wilson.

Enclosure: Informal memorandum above noted.

Sub-Enclosure with Mr. Wilson's No. 372 of January 18, 1906.

MEMORANDUM

IN RELATION TO THE PROPERTY OF CERTAIN AMERICAN CITIZENS AT PORT ARTHUR.

August 3, 1905.

Mr. Griscom called upon Mr. Chinda and handed him a memorandum summarizing the correspondence between this legation and the Minister for Foreign Affairs in relation to the protection of the property of American citizens at Port Arthur and their desire to visit the city to look into the condition of their affairs. Mr. Chinda promised that he would take up the question with the military authorities.

October 5, 1905.

Mr. Griscom asked Mr. Chinda if it were then permissable for Americans owning property at Port Arthur to go there. Mr. Chinda said the military authorities still objected, and suggested that the question be deferred until after the ratification of the treaty of peace when he would take it up with the military authorities.

October 24, 1905.

Mr. Griscom spoke again on the subject to Mr. Chinda who replied that the Foreign Office could see no objection to the merchants entering Port Arthur, but that the military authorities still refused permission. He added that the matter would be brought up again to see if the military authorities could not be induced to change their views.

November 1, 1905.

Mr. Griscom again asked permission for Americans owning property at Port Arthur to go there to investigate. Mr. Chinda said that the military authorities still objected. Mr. Griscom said that he could see no possible ground for objection in time of peace and that he was afraid that in America the situation would be considered as worse than under Russian rule. Mr. Griscom mentioned that there was a great deal of property at stake and hoped that permission would be granted at the earliest possible moment. Mr. Chinda promised to take the matter up with the military authorities and let Mr. Griscom know the result.

November 3, 1905.

General Ishimoto and General Murata intimated to Mr. Wilson that permission might be given to American travellers to visit Dalny and Port Arthur.

November 21, 1905.

Mr. Wilson called upon General Ishimoto and reminded him of the above matter, asking that permission be given the three or four Americans chiefly interested to investigate the condition of their properties. General Ishimoto said that travellers for curiosity's sake would be permitted to go, but begged Mr. Wilson to wait a little longer as to the merchants; saying in effect that the military authorities were preparing regulations etc., and that after "two weeks or so" matters would be in such condition as to permit the entry of merchants. Mr. Wilson suggested that the merchants

chants might be permitted to go there at once as tourists in order to be on the ground at the moment of the removal of restrictions, since the two weeks to elapse before their removal would be consumed in transmitting the news of such permission to the merchants and their transit to Port Arthur.

November 24, 1905.

Mr. Laughlin called on Major Yoshida in regard to the desire of certain American travellers to visit Port Arthur and Dalny and reminded him of General Ishimoto's intimation to Mr. Wilson that arrangements for unrestricted travel would be completed in about two weeks from November 21. Major Yoshida said that the permission requested November 21 for Mr. W. R. Dunn to visit Port Arthur and Dalny would be granted and that "in a very short "time" travel would be generally unrestricted.

November 25, 1905.

Mr. Wilson spoke to Mr. Ishii and Mr. Matsui at the Foreign Office on this question, telling them of General Ishimoto's assurance that American business men having property at Port Arthur or Dalny would be able to visit those places in about two weeks from November 21. Mr. Matsui said he had been present at the recent meeting of War Office, General Staff, and Port Arthur officers when it had been agreed upon that foreign merchants were to be allowed to enter those ports. It remained for the completed arrangements to be approved, but it was implied that the delay would not be long.

December 11, 1905.

Mr. Wilson saw Mr. Chinda, who promised to give directions for a communication on the subject to the War Office.

December 14, 1905.

Mr. Wilson saw Mr. Matsui, who promised that the War Office should be again urged on the subject.

December 19, 1905.

Mr. Wilson saw Major Yoshida at the War Office. He promised to communicate his remarks to General Terauchi and General Ishimoto, who were absent, and to let him know the results.

December 21, 1905.

Mr. Wilson had an interview with Count Katsura, who promised to speak about the matter to General Terauchi and have Mr. Chinda give an answer.

December 21, 1905.

Major Yoshida replied in writing to Mr. Wilson's representations made December 19, to the effect that the owners of property at Port Arthur would be allowed to go there before long.

January 11, 1906.

Mr. Wilson requested his Excellency Mr. Kato kindly to bring this subject again to the attention of the military authorities.

ENCLOSURE NO.2 WITH MR. WILSON'S NO.372 OF JANUARY 18, 1906.

TRANSLATION.

Tokyo, January 17, 1906.

Sir,-

Referring to the applications for the permission to visit Port Arthur, Dalny, etc., by the foreigners who left their private properties in those places or by their representatives for the purpose of settling or carrying them away, we have hitherto not granted any application for military and other reasons. The restriction is, however, shortly to be removed, and it has been unofficially decided to give permission to visit those places. I write in haste this note to Your Excellency, as I am informed by the authorities concerned that the Department of War is soon to give notice to that effect.

I have the honor to be, Sir,
Your obedient servant,
Kato,
Minister for Foreign Affairs.

To His Excellency
Chargé d'Affaires of the United States
of America.

APPOINTMENTS
JAN 19 1906
Department of State

TELEGRAM RECEIVED IN CIPHER.

RECEIVED
JAN 19 1906
DEPARTMENT OF STATE

From Tokio

Rec'd. January 19th

9:52 A. M.

Secretary of State.
JAN 19 1906

Secretary of State,

Washington.

January 19th, 5 P. M. The Japanese Government regret that they cannot permit any foreign consul to reside in the region of Mukden until the complete withdrawal of troops from that locality restores it to normal conditions.

WILSON.

INDEX BUREAU
JAN 22 1906
FILED

Ciphered by ~~the Chief Clerk's Office~~,
O. C. S.

BUREAU OF APPOINTMENTS
JAN 19 1906
Department of State.

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
JAN 19 1906

From Tokyo

Rec'd. January 19th, 1906.

11:10 A. M.

Secretary of State,

Washington.

January 19th, 5 P. M. I have obtained the Japanese Government's consent to communicate to you in strict confidence the secret protocols of the Peking treaty if you instruct me to do so.

WILSON.

hered by the Chief Clerk's Office,

C. R. D.

JAN 19 1906 Department of State.

RECEIVED JAN 19 1906 COMMERCE BUR. DEPT. OF STATE

TELEGRAM RECEIVED IN CIPHER.

From Tokio

Rec'd. January 19th, 1906.

11:05 A. M.

Secretary of State,

Washington.

January 19th, 5. P. M. The Foreign Office ask that the customs authorities at Seattle be authorized to pass a case addressed to the Japanese Chargé d' Affaires at Washington, which will arrive by steamer Srihano Maru about February 8th. The contents is a wedding present for Miss Roosevelt from the Emperor of Japan, and it is feared it might be injured if opened.

WILSON.

INDEX BUREAU JAN 29 1906 FILED

Ciphered by the Chief Clerk's Office,

O. C. S.

DEPT OF STATE
FEB
13
1906
2ND ASST SECRETARY

DIPLOMATIC BUREAU.
Ack. Similar notification received here Jan 2. 1906.

AMERICAN LEGATION,
TOKIO.

RECEIVED
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1906
DIPLOMATIC BUR. DEPT. OF STATE

No. 373.

January 19, 1906.

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Ackd Feb 28

CHIEF CLERK
FEB
13
DEPARTMENT
OF STATE.

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Korea. Japanese Legation and Consulates to be closed and Residency-General and Residencies to be opened February 1, 1906.

INDEX BUREAU
MAR 6 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 373. January 19, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to transmit herewith a copy of a note addressed to me today by the Japanese Minister for Foreign Affairs, announcing that the Japanese Government have decided to close their Legation and Consulates in Korea on the first of February next and to open the Residency-General at Seoul and the Residencies at the localities where the present Consulates or their branch offices are situated; and that, consequently, after the date referred to all local affairs appertaining to the functions of foreign Consuls, on account of which communications have hitherto been made at Seoul directly to the Korean Government, are to be communicated to the Residency-General, while such matters as have hitherto been communicated by them to the Korean local authorities are to be referred to the Residencies.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURE-Copy:

Mr. Kato to Mr. Wilson, January 19, 1906.

(Enclosure with Mr. Wilson's No. 373 of January 19, 1906)

Copy-Translation.

No. 4. DEPARTMENT OF FOREIGN AFFAIRS,

Tokio, January 19, 1906.

Sir:

I beg to inform you that whereas the affairs of the Residency-General and Residencies of this Empire in Korea have been provisionally transacted by the Imperial Legation and Consulates in that country, the Imperial Government have decided to close the Legation and Consulates on the first of February next, and to open the Residency-General at Seoul and the Residencies at the localities, where the present Consulates or their Branch Offices are situated, when the new functionaries will assume their duties in conformity with the agreements concluded between Japan and Korea as well as the Regulations for the Organization of Residency-General and Residencies, promulgated by the Imperial Ordinance No. 267of the 20th day of the 12th month of last year; and that consequently after the date referred to all local affairs appertaining to the functions of foreign Consuls, on account of which communications have hitherto been made at Seoul directly to the Korean Government,are to be communicated to the Residency-General, while such matters as have hitherto been communicated by them to the Korean local authorities are to be referred to the Residencies.

Accept, Sir, the renewed assurances of my highest consideration.

Signed: Kato Takaaki,

Minister for Foreign Affairs.

Huntington Wilson, Esqre.,

Charge d'Affaires of the United States of America.

SOLICITOR'S OFFICE
FEB 14 1906

AMERICAN LEGATION,
TOKIO.

No. 374. January 22, 1906.

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DEPARTMENT
OF STATE.

Mr. Huntington Wilson to Mr. Root.

Subject:- Messrs. Collbran and Bostwick's Korean mining concession of February 15, 1904.

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Office of the Solicitor.

Dep. Duncan:

1906

in Japan, a direct
the alleged prior allotment of their claims
to Koreans is a fraud, the grant being
antedated.

We may soon hear from Mr
Kennedy in the same strain.

Ack + file?

Yrs J.B.L.

DEPARTMENT OF STATE.

Second Assistant Secretary's Room.

MEMORANDUM. Feb. 13, 1906

Dear Mr. Bacon:

These papers comprise a convenient compilation of the correspondence heretofore, with which you are familiar, in regard to Colbran & Boatwright's mining claim.

The only new paper is the letter of C & B. Jan. 11. 1906, to our legation in Japan, in which they claim that the alleged prior allotment of their claim to Koreans is a fraud, the grant being antedated.

We may soon hear from Mr. Kennedy in the same strain.

Ack & file?

Yr. J.B.S.

AMERICAN LEGATION,
TOKIO.

No. 374. January 22, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to transmit herewith copies of a letter from Consul-General Paddock at Seoul, dated January 11, 1906, with enclosures, relating to a complaint from Messrs. Collbran and Bostwick against the recent action of the Korean Government in refusing the location of certain mining rights.

It appears from these documents that Messrs. Collbran and Bostwick, on February 15, 1904, obtained from the Imperial Household Department of Korea a concession giving them the right in Korea, within two years from the conclusion of peace between Japan and Russia, to select a mining district, not to exceed a specified area, to be developed and worked by American capital. This concession, which was subsequently approved and confirmed by the Emperor of Korea, provided, among other things, that "no concessions or contracts shall be granted "by the Imperial Korean Household Department after this "date that may in any way interfere with the conditions "contained in this concession, or which shall in any de-"gree injure the privileges given to Collbran and Bost-"wick."

On November 4, 1905, the American Minister at Seoul notified the Korean Foreign Office that, in conformity with said concession, the mining district known

as

as Kapsan, in Ham Kien Province, had been selected.

On November 11, 1905, the Korean Minister for Foreign Affairs replied to this notification that mining rights in the district mentioned had been granted during the previous year to Korean subjects.

Messrs. Collbran and Bostwick now protest that the action of the Korean Government in the premises is a violation of their rights and allege that the grant of this district to Korean subjects is invalid for the following reasons:

"First by its date, secondly by its unauthor-
"ized amendments and as there can be little doubt but
"what it was only issued through the influence of some
"Court Official to provide an excuse to deprive us from
"exercising our legitimate rights."

On the 18th instant I verbally described this case to the Minister for Foreign Affairs and apprised him of the protest of Messrs. Collbran and Bostwick. For the purpose of more fully safeguarding their interests, and pending the receipt of specific instructions from the Department, I have today addressed a note to Mr. Kato, transmitting copies of the above-mentioned documents. I have the honor to enclose herewith a copy of that note.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURES+Copies:

1. Consul General Paddock to Mr. Wilson, January 11, 1906, with six sub-enclosures.
2. Mr. Wilson to Mr. Kato, January 22, 1906.

(Enclosure No. 1 with Mr. Wilson's No. 374 of January 22, 1906-Copy)

No. 2 A. L. T.

U. S. Legation, Tokio
Recd. Jan 17 1906
No. 641.

AMERICAN CONSULATE GENERAL,

SEOUL, KOREA.

Jan. 11, 1906.

Huntington Wilson Esquire,

etc. etc. etc.

American Chargé d' Affairs,

Tokyo, Japan.

Sir:-

I have the honor to transmit to you enclosed a letter addressed to you by Messrs Collbran and Bostwick, the American firm interested in Electric railway, mining and other undertakings in Korea, protesting on their part and on behalf of the American Korean Mining Company, which they represent, against the refusal of the Korean Minister for Foreign Affairs to allow them a district which they have selected for mining purposes under their concession, a copy of which is enclosed, on the plea that the same had already been granted to Korean subjects.

For your further information I hand you enclosed a copy of Mr. Morgan's note to the Foreign Minister informing him of the district selected by Messers Collbran and Bostwick in conformity with the terms of their concession, and of the Minister's reply thereto; also copies of Mr. Morgan's letters on the subject to Messrs Collbran Bostwick. It is possible Mr. Morgan may have given you further information concerning the matter during his recent stay

(Enclosure No. 1 with Mr. Wilson's No. 374 of January 22, 1906-Copy)

No. 2 A. L. T.

U. S. Legation, Tokio
Rec'd. Jan 17 1906
No. 841.

AMERICAN CONSULATE GENERAL,

SEOUL, KOREA.

Jan. 11, 1906.

Huntington Wilson Esquire,

etc. etc. etc.

American Chargé d' Affairs,

Tokyo, Japan.

Sir:-

I have the honor to transmit to you enclosed a letter addressed to you by Messrs Collbran and Bostwick, the American firm interested in Electric railway, mining and other undertakings in Korea, protesting on their part and on behalf of the American Korean Mining Company, which they represent, against the refusal of the Korean Minister for Foreign Affairs to allow them a district which they have selected for mining purposes under their concession, a copy of which is enclosed, on the plea that the same had already been granted to Korean subjects.

For your further information I hand you enclosed a copy of Mr. Morgan's note to the Foreign Minister informing him of the district selected by Messers Collbran and Bostwick in conformity with the terms of their concession, and of the Minister's reply thereto; also copies of Mr. Morgan's letters on the subject to Messrs Collbran Bostwick. It is possible Mr. Morgan may have given you further information concerning the matter during his recent stay

in Tokyo, and I shall, of course, be ready to provide you with any further information in our possession here should it be required.

I am, Sir:-

Your obedient servant,

(Signed) Gordon Paddock

Enclosures:-

Six, as above.

in Tokyo, and I shall, of course, be ready to provide you with any further information in our possession here should it be required.

I am, Sir:-

Your obedient servant,

(Signed) Gordon Paddock

Enclosures:-

Six, as above.

No. 2 A. L. T.

Enclosure I.

(Copy)

11th January 1906.

The Hon. Gordon Paddock.
United States Consul General,
Seoul, Korea.

Sir:-

We enclose herein a letter addressed to His Excellency, the American Minister to Japan respecting the rights of Collbran and Bostwick and the American Korean Mining Company under the mining concession of February 15th 1904 to select the Kapsan mining district under our notification addressed to the American Minister at Seoul, dated October 26th 1905.

I also enclose a copy of the letter for your files.

Will you kindly transmit the original to His Excellency at Tokyo?

Your obedient Servants,

Collbran and Bostwick

per H. Collbran

The American Korean Mining Company

per H. Collbran

Enclosures.

(Copy)

COLLBRAN & BOSTWICK.

SEOUL, KOREA.

11th January 1906.

His Excellency,

The American Minister to Japan,

Tokyo.

Sir,

Referring to the communication received from His Excellency Edwin V. Morgan dated Seoul Legation November 15th 1905 stating that the notification made by us of the selection of Kapsan Mining District under the rights contained in the mining concession issued by the Korean Government on February 15th 1904 in our favor had been declined by the Korean Government for the reason that the said mining rights had been granted to Korean subjects in 1904 we beg leave to protest against the acceptance of any such denial at this date of the legitimate rights granted us.

Paragraph 17 of the Concession granted Collbran and Bostwick provides that the privileges therein granted shall not be injured by subsequent concessions.

In calling your attention to the statement received by the late United States Minister, Mr. E. V. Morgan, from the Korean Government to the effect that the Kapsan district was granted to Korean subjects in 1904, we beg to say that the alleged concession in question was recently offered to us for purchase at a price of 15,000 yen.

It is dated March 3rd 1903 and bears the Imperial Seal of His Majesty, the Emperor of Korea.

When the concession was first shown to us we pointed out that it contained impractical conditions, including the payment of a royalty of 20% of the gross output

The next time it was brought it bore an amendment making the royalty 20% of the net profits.

No certification of the alteration appeared on the document and no additional seal had been obtained.

The concession contained no other seal than the Imperial Seal and no evidence of having been registered or recorded.

The possessor of the concession admitted that nothing had been done under the concession rights and was not even aware that the property is still being worked in a crude way by the natives, who however have very generally expressed a great hope that it will receive developement at our hands and in accordance with modern methods.

The alleged concession was issued in the name of an obscure Korean in order to make it a Korean instrument in preference to a foreign one and its present possessor is a Korean named Yi Yin Yong who was so well known as Ye Yong Ik's chief assistant.

This man makes little denial to the suggestion that the concession was in reality only recently issued but is earnest in his efforts to obtain payment for it asking for a preliminary payment of 5,000 yen

which he promises to return if the title is not made good.

As it is evident that the concession is invalid first by its date, secondly by its unauthorised amendments and as there can be little doubt but what it was only issued through the influence of some Court Official to provide an excuse to deprive us from exercising our legitimate rights, we declined to make any offer for it.

Had it been a valid document we should have been glad to enter into negotiations with it's owner because the date it bears is prior to the date of our concession.

We think it is generally known that many documents bearing His Majesty's personal seal are now being offered for sale.

All of the documents are ante-dated but the fact that they were only recently issued is not disguised

As the right of first selection granted us in the concession cannot be disputed as applying from February 15th 1904 and as there can be no doubt concerning the worthlessness of the Korean concession alleged to have been issued March 1903, we beg that you will please cause an official protest to be promptly made through the proper channels, together with a renewal of the notification to the Korean Government of the selection of Kapsan Mining District under the rights contained in the concession granted to Collbran & Bostwick February 15th 1904.

As a matter of general information we beg to say that our Counsel in Washington, Mr. Wayne McVeagh

is in full possession of all particulars and discussed the subject very fully with Mr Takahira prior to that gentleman leaving Washington for Tokyo.

We are acting under Mr McVeagh's cabled advice in requesting that an official protest be immediately filed.

We beg to enclose herewith a copy of the Collbran & Bostwick Concession and to remain

Your obedient Servants,

COLLBRAN AND BOSTWICK

per H. Collbran

The AMERICAN KONRAN MINING COMPANY

per H. Collbran.

Enclosure.

(Copy)

Enclosure-2-
No. 2. A. L. T.

DETAILS OF MINING CONCESSION granted to the American firm of Collbran and Bostwick, by the Imperial Household Department of the Korean Government in accordance with the agreement entered into on the 15th day of February, A. D. 1904, said agreement bearing the seal of the Imperial Korean Household Department.

1. Collbran and Bostwick or their assigns, shall be permitted to employ Engineers, and make a thorough examination of all mining Districts together with a representative of the Imperial Korean Household Department, and to select one complete district of one less than sixty (60) Korean li long and forty (40) Korean li wide, in which the said Collbran and Bostwick or their assigns, shall carry on their mining Operations. In selecting the district Collbran and Bostwick shall be permitted to choose one from among the Districts reserved for the Imperial Korean Household Department, if they desire to do so.

2. Collbran and Bostwick or their assigns, must inform the Imperial Korean Household Department through the official representative of the United States Government in Korea of the place selected as early as may be convenient to them, but not later than two years from the date of restoration of peace between the Governments of Russia and Japan.

3. After the district has been selected, the actual work of the development of the mines must commence within a further period of one year, unless the war between Russia and Japan is still unsettled or other disturbances exist in Korea, and in that event work may be delayed until one year after the war has terminated, or other disturbances have been stopped.

4. Collbran and Bostwick shall at any time after this date incorporate an American Company which shall own this concession and which shall develope the district selected.

5. This Company shall be called the American Korean Mining Company.

6. The Imperial Korean Household Department will be informed through the United States Legation when this Company is incorporated and shall if it desires to do so subscribe one-half of the capitalisation and receive one-half of the shares issued, and one-half of the profits The Imperial Korean Household Department shall enjoy this privilege for a period of one hundred (100) days from the date it is informed of the incorporation of

the company, by the Official Representative of the United states Government at Seoul, Korea. The capitalisation of the Company shall be about one million United States Gold dollars, fully paid up, but this capitalisation may be increased at such future dates as may be deemed advisable.

7. In case the Imperial Korean Household Department does not wish to subscribe one-half of the capitalisation or does not subscribe the same within the above-mentioned one hundred (100) days, then Collbran and Bostwick will have all the capitalisation subscribed in America and in this event the Imperial Korean Household Department will receive twenty-five (25) per cent of the profits of the American Korean Mining Company, as stated in clause twenty-five (25) of this concession.

8. Collbran and Bostwick agree that they will not sell this concession to any one else than the American Korean Mining Company.

9. Collbran and Bostwick shall have full power and authority to appoint the Officers and Directors of the American Korean Mining Company and the management and operations of the mines contained in the district selected shall entirely remain in the hands of such officers of the American Korean Mining Company; but should the Imperial Korean Household Department subscribe one-half of the capitalisation of the American Korean Mining Co. as above provided, then the officers shall be appointed by Collbran and Bostwick and the Representative of the Imperial Korean Household Department.

10. The Mining Operations possessed by Collbran and Bostwick under this concession shall be carried on under the following conditions:

11. The American Korean Mining Company may employ foreigners as they consider necessary.

12. The property of the American Korean Mining Company, shall at all times be protected by the Korean Government and also the officials and employees of the American Korean Mining Company, their families and their personal properties.

13. If it happens that the district first selected by Collbran and Bostwick, or their assigns, should in the opinion of the American Korean Mining Company, prove unprofitable at any time during the first ten years of the life of this Concession dating from the time that the first District is selected, then the American Korean Mining Company may select another District to take the place of the first one, and shall be permitted to own and operate it for a period of twenty-five (25) years under the same conditions that applied to the First District chosen.

14. In the event of the American Korean Mining Company selecting a second District, the first one must be given back to the Imperial Korean Household Department within a period of one year from the date the Imperial Korean Household Department is officially informed of the location of the second District selected, and the American Korean Mining Company shall remove their buildings and machinery from the first District within that time.

15. At the termination of the period covered by this Concession, the American Korean Mining Company may sell or remove their machinery, buildings and all materials and supplies wheresoever they please.

16. The American Korean Mining Company or its assigns shall be permitted to search for and operate mines containing gold and all other metals and minerals, and precious stones, and also petroleum and other oils, within the District selected by them.

17. No Concessions or Contracts shall be granted by the Imperial Korean Household Department after this date that may in any way interfere with the conditions contained in this Concession, or which shall in any degree injure the privileges given to Collbran and Bostwick.

18. Should the Imperial Korean Household Department at any time during the life of this concession, give Mining Concessions or make agreements or contracts with any other party or parties which possess greater benefits to the Receiver of the Concession than are given in this Concession, or which provides for a less amount than twenty-five (25%) per cent of the profits to the Imperial Korean Household Department, then and in that event, similar benefits shall be given to the owners of this Concession.

19. The American Korean Mining Company shall be permitted to erect houses, offices, and every kind of buildings they consider necessary within the boundary of the grounds contained in the District selected and shall be permitted to sink shafts, walls, cut and use timber and do all and every kind of mining work they may consider necessary. The timber used must be paid for at usual prices.

20. The American Korean Mining Company shall be permitted to use all the water they may require for domestic and mining purposes, that can be obtained from streams, rivers, springs and lakes in or near the District selected, and they may use water to provide power for operating machinery by electricity or otherwise.

20

21. The American Korean Mining Company may build and operate stamp mills, chlorination, cyanidation, smelting works, refineries and any other kind of mill they may consider necessary.

22. The American Korean Mining Company may build wagon roads, aerial and land tramways, railways, telegraph and telephone lines, within the limits of the District selected and may use all such conveniences and all forms of electric power and lighting they may consider necessary

23. The American Korean Mining Company may import or manufacture all kinds of explosives and may transport explosives through the country using precaution for the safety of the people and may use all kinds of explosives in the operation of the mines.

24. The American Korean Mining Company must not interfere with or move graves without first obtaining the assent of the owners or of the Magistrate of the District .

25. Five per cent of the gross receipts shall be kept in the Treasury of the American Korean Mining Company for improvements, and twenty-five (25%) per cent of all of the profits shall be paid to the Imperial Korean Household department.

26. No taxation in any form whatever shall be demanded or collected upon any of the business or operations of the American Korean Mining Company, or upon the machinery, buildings, materials or supplies, or upon any of the foreign labourers employed.

27. All machinery and materials used by the American Korean Mining Company shall be admitted free of duty, and all supplies that cannot be purchased in Korea shall be admitted free from any customs or other duty and no duty shall be charged upon any of the products that are exported.

28. The Imperial Korean Household Department may appoint a Korean Inspector, one who can speak and write English and who shall at all times have full access to the books and documents of the American Korean Mining Company covering the business of the American Korean Mining Company, showing all items of expenditure and receipts of the American Korean Mining Company, and who shall report to the Imperial Korean Household Department.

The official selected for this position shall not be allowed to interfere with any of the Mining Operations carried on by the American Korean Mining Company, but the American Korean Mining Company may select Koreans who are experienced and capable in mining work, and these Koreans may be employed in the development and operation of the mines.

29. This Concession when sealed with the seal of the Imperial Korean Household Department and signed by Collbran and Bostwick shall be binding on the Imperial Korean Household Department and on Collbran and Bostwick, and neither the Imperial Korean Household Department nor Collbran and Bostwick can withdraw therefrom except by mutual consent exchanged in writing.

30. A translation of this Concession may be made in official Korean but in the event of any misunderstanding arising the English copy shall be considered the correct one, and final and binding on both the Imperial Korean Household Department and on Collbran and Bostwick.

31. Should any dispute arise between the Imperial Korean Household Department and Collbran and Bostwick or the American Korean Mining Company, such dispute shall be settled by arbitration, such arbitration to be arranged between the Korean and the United States Governments.

Granted this fifteenth day of February, A. D. Nineteen hundred and four.

Seal of Household Ministers

Seal of Imperial Korean Household Department

ACCEPTED by Collbran and Bostwick, this Fifteenth day of February A. D. Nineteen Hundred and Four.

COLLBRAN & BOSTWICK

(Signed) per H. R. Bostwick

H. Collbran.

Empire of Korea:
City of Seoul: G. S.

On this 25th day of June 1904, before me, Gordon Paddock, U. S. Consul General at Seoul, Korea, personally appeared Min Pyung Suk, to me known and known to me to be the Minister of the Imperial Korean Household Department, and he thereupon stated in my presence that he is familiar with the contents of the foregoing Mining Concession, and that the same is duly and executed, and bears the true and authentic seals of the Imperial Korean Household Department, and of the Minister of the Imperial Household Department, and that of his own knowledge the same was so signed and executed for the purposes therein mentioned, by the express order of His Imperial Majesty, the Emperor of Korea.

In witness whereof I have hereunto set my hand and affixed the Seal of the United States Consulate General at Seoul, Korea, the day and year above written.

(signed) Gordon Paddock

Seal of Consulate.

U. S. Consul General.

The Minister for Foreign Affairs of the Empire of Korea, over the Seal of his Office, hereby certifies that the within Mining Concession was granted for the purpose therein mentioned to the American Firm of Collbran and Bostwick, by the Imperial Household Department of the Korean Government, under the direct order of His Imperial Majesty, the Emperor of Korea, on February 15th A. D. 1904; and the Minister for Foreign Affairs of the Empire of Korea, over the seal of his Office, hereby approves, ratifies and confirms the within Mining Concession, to the American Firm of Collbran and Bostwick, and in witness whereof hereto affixes his seal and the Seal of his Office, this 20th day of April A. D. 1904.

Foreign Ministers Seal

Seal of Imperial Korean Government Foreign Office

Empire of Korea:
City of Seoul: S. S.

I, Gordon Paddock, U. S. Consul General at Seoul, Korea, hereby certify that I am familiar with the Seals of the Korean Foreign Office and of the Korean Minister for Foreign Affairs, and that to the best of my belief the Seals affixed to the foregoing Confirmation of the within Mining Concession are true and authentic Seals of the Korean Foreign Office and of the Korean Minister for Foreign Affairs.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the U. S. Consulate General at Seoul, Korea, this 6th day of July, 1904.

Gordon Paddock,
U. S. Consul General.

Seal of the U. S. CONSULATE GENERAL at Seoul, Korea.

RECORDED in the U. S. Consulate General at Seoul, Korea The 6th day of July, 1904, in Liber 1. Legal Documents at Pages 114

Gordon Paddock
U. S. Consul General.

(Copy)

CONSULATE GENERAL OF THE UNITED STATES
OF AMERICA AT SEOUL, KOREA.

I. Gordon Paddock, Consul General of the United States of America at Seoul, Korea, hereby certify that the within is a true and correct copy of an original instrument, together with the seals and signatures thereto and the authentications of the same, recorded in the office of the Consulate General of the United States of America at Seoul, Korea, the 6th day of July, 1904, in Liber 1 Legal Documents, etc. at page 114.

In Witness Whereof I have hereunto set my hand and affixed the seal of the Consulate General of the United States of America at Seoul, Korea, this 6th day of July, 1904.

(signed) Gordon Paddock,
U. S. Consul General.

The Imperial Household Department of Korea, on this thirteenth day of February, 1904, agrees and hereby guarantees that Coelbran and Bostwick shall own and operate a mining Concession, in the District to be selected by them, and which is to be incorporated into an American and Korean Mining Company. When the Company is incorporated His Majesty, the Emperor of Korea, will subscribe one-half of the capitalization and receive one-half of the shares and profits, but in the event of His Majesty, the Emperor of Korea not wishing to subscribe the half capital within a period of one hundred (100) days after the date the Company is incorporated, then the capitalisation shall be subscribed by Collbran and Bostwick or their representatives, who will then own all the shares, but they shall pay the Korean Government twenty-five per cent (25%) of the profits. In case of misunderstanding the English copy of this order shall be considered as being the correct one.

BY ACTING MINISTER OF THE IMPERIAL HOUSEHOLD DEPARTMENT OF KOREA

SEAL OF THE IMPERIAL DEPARTMENT OF KOREA

Great Seal of Imperial

Household Department

of the Empire of Korea

Seal of Minister

Empire of Korea:
City of Seoul : S. S.

I, Gordon Paddock, Consul General of the United States at Seoul, Korea, do hereby certify that the above are the true and genuine seals of the Imperial Household Department of the Empire of Korea, and of the Acting Minister of the Imperial Household Department of Korea.

In Witness whereof I have hereunto set my hand and affixed the seal of the Consulate General of the United States of America at Seoul, Korea, this 8th day of March 1904.

(signed) Gordon Paddock
U. S. Consul General

Seal of the
Consulate General
of the
United States

Recorded in the office of the Legation and of the Consulate General of the United states of America, at Seoul, Korea, this 8th day of March, 1904, in Liber 1, Legal Papers, etc. pages 95 and 96.

(Signed) Gordon Paddock
U. S. Consul General.

I, Gordon Paddock, Consul General of the United States at Seoul, Korea, hereby certify that the foregoing is a true and correct copy of an original document recorded in the office of the Consulate General of the United States of America at Seoul, Korea, on the 8th day of March, 1904, in Liber 1. Legal Papers, etc., pages 95 and 96.

In witness whereof I have hereunto set my hand and the seal of the Consulate General of the United States of America at Seoul, Korea, This 7th day of July 1904.

(Signed) Gordon Paddock,
U. S. Consulate General

(Copy)

Extract from an agreement made between His Majesty the Emperor of Korea and Collbran and Bostwick, dated February 19th 1904, wherein His Majesty purchased one half interest in the electric railway in Seoul owned by Collbran and Bostwick, still leaving operation and control in the hands of Collbran & Bostwick.

Section 5.

All agreements, concessions and franchises heretofore given Collbran & Bostwick by the Korean Government are approved and confirmed.

Signed for His Majesty the Emperor of Korea by,
H. K. Yee.

Over the Imperial Seal this agreement is hereby approved by His Majesty the Emperor of Korea.

IMPERIAL SEAL

AGREEMENT certified by the United States Consul General, and sealed by Consulate Seal March 8th 1904.

(Copy)

No. 25.

Enclosure 3-

No. 2- A. L. T.

November 4, 1905.

Monsieur le Ministre:-

In accordance with the desire of the American Korean Mining Company and in persuance of telegraphic instructions which I have received from my Government I have the honor to request Your Excellency to inform the Imperial Korean Household Department in conformity with Article II of the concession referred to below that the mining district known as Kapsan, situated in north eastern Korea, in the province of Ham-Kien, about twenty three miles east of the magistral town of Kapsan, and at the village of Ko Djin Dong, has been selected under the mining concession granted to Messrs. Collbran and Bostwick by the Imperial Household Department on the 15th day of February, A. D. 1904, said concession being recorded in the United States Consulate General at Seoul.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Edwin V. Morgan.

His Excellency,

Pak Che Soon,

Minister for Foreign Affairs.

(Copy)

Enclosure 4-

No. 2. A. L. T.

Department of Foreign Affairs,

Seoul, November 11, 1905.

Monsieur le Ministre:-

I have the honor to acknowledge the receipt of Your Excellency's despatch of the 4th instant, and beg to say in reply that mining rights at Kapsan within the province of Ham Kyeng, to which Your Excellency refers, were granted last year to Corean subjects.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Pak Chai Soon.

His Excellency

Edwin V. Morgan

etc. etc. etc.

(Copy)

Enclosure -5-
No. 2. A. L. T.

November 4, 1906.

Sir:

In conformity with the request contained in your communication of the 26th instant regarding a notification to the Korean Household Department of the selection of a mining district under the concession to Messrs Collbran and Bostwick from that Department of February 15, 1904, and in pursuance of telegraphic instructions from my Government, I beg to inform you that in accordance with the terms of Article II of the above named concession I have today informed the Imperial Korean Household Department in a note addressed to His Excellency Pak Che Soon, Minister for Foreign Affairs, that the mining district known as Kapsan, situated in northeastern Korea in the province of Ham Kien, about twenty three miles east of the magistral town of Kapsan, and at the village of Ko Djin Kong, has been selected under the mining concession granted to Messrs Collbran and Bostwick by the Imperial Household Department on the 15th day of February A. D. 1904, said concession being recorded in the Consulate General of the United States at Seoul.

Your obedient servant,

Edwin V. Morgan.

Enclosure.

R. A. Elliott Esquire,
Representative of Messrs Collbran and Bostwick
Seoul, Korea.

(Copy)

Enclosure 6.

No. 2. A. L. T.

November 15, 1905.

Sir:

I beg to inform you that in reply to the note which I addressed to the Imperial Korean Minister for Foreign Affairs on the 4th instant, in which, in conformity with Article II of the mining concession of February 15, 1904, I requested His Excellency to inform the Imperial Korean Household Department that the district of Kapsan in Northeastern Korea had been selected by Messrs Collbran and Bostwick, His Excellency states that mining rights at Kapsan to which my note referred were granted last year to Korean subjects.

I have the honor to be,

Your very obedient,

Edwin V. Morgan,

E. A. Elliott Esquire,

Representing Messrs Collbran and Bostwick,

for the American Korean Mining Company.

(Enclosure No. 2 with Mr. Wilson's No. 374, of January 22, 1906)

COPY.

AMERICAN LEGATION,

TOKIO, January 22, 1906.

Monsieur le Ministre:

I have the honor to transmit herewith copies of a letter to this legation from the American Consul General at Seoul, dated January 11, 1906, and accompanying documents, relating to the protest of Messrs. Collbran and Bostwick, American citizens, against the recent action of the Korean Government in refusing the location of certain mining rights in the province of Ham Kien.

Your Excellency will observe that Messrs. Collbran and Bostwick complain that they have been deprived of valuable privileges which were guaranteed to them by a concession from the Imperial Household Department of Korea on February 15, 1904, and approved and confirmed by His Majesty the Emperor of Korea on February 19, 1904.

They also state that their counsel recently discussed this subject very fully with His Excellency Mr. Takahira, His Imperial Japanese Majesty's Minister at Washington.

I avail of this occasion to renew to Your Excellency the assurance of my highest consideration.

Huntington Wilson.

To His Excellency

Kato Takaaki,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Enclosures-Copies-Consul General Paddock to Mr. Wilson, January 11, 1906, with 6 sub-enclosures.

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No. 375.

January 23, 1906.

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Mr. Huntington Wilson to Mr. Root.

No. 1 to Japan
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SUBJECT: Mukden Consulate General.
Confirming telegrams.

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AMERICAN LEGATION,
TOKIO.

No. 375. January 23, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to acknowledge and confirm your telegraphic instruction, received the 14th instant, and to confirm the Legation's cipher telegram in reply, as follows:

(Telegram received January 14, 1906)

Amlegation, Tokio.

Ask Japanese Government if objection still continues to Consul-General at Mukden going to his post.

Root.

(Telegram sent January 19, 1906)

Secstate, Washington.

January 19, 5 P. M. The Japanese Government regret that they cannot permit any foreign consul to reside in the region of Mukden until the complete withdrawal of troops from that locality restores it to normal conditions.

Wilson.

Upon receipt of the above instruction I immediately communicated the inquiry to the Foreign Office in writing. My telegram of the 19th gives the full gist of the Minister for Foreign Affairs' answer.

I shall inquire from to time and endeavor to inform you at the earliest moment when it becomes practicable for

for the Consul-General of the United States at Mukden to proceed to his post.

I have the honor to be,

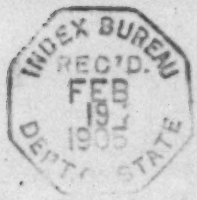
Sir,

Your obedient servant,

Hugh Gibson.

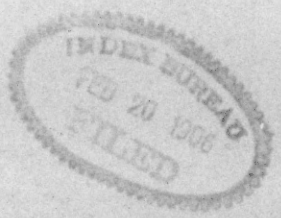
AMERICAN LEGATION,
TOKIO.

No. 376 January 23, 1906.



Mr. Huntington Wilson to Mr. Root.

SUBJECT: Emperor of Japan's wedding present to Miss Roosevelt. Confirming telegram.



AMERICAN LEGATION,
TOKIO.

No. 376

January 23, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I beg to confirm the cipher telegram which I had the honor to dispatch to you on the 19th instant, reading as follows:

Secstate, Washington.

January 19, 5 P. M. The Foreign Office ask that the Customs Authorities at Seattle be authorized to pass a case addressed to the Japanese Chargé d'Affaires at Washington which will arrive by the steamer "Shinano Maru" about February eighth The contents is a wedding present for Miss Roosevelt from the Emperor of Japan and it is feared it might be injured if opened. Wilson.

The foregoing request was made informally through an official of the Foreign Office, who stated that a member of the Japanese Consulate at Seattle would probably carry His Majesty the Emperor's gift to Washington, where it would be presented to Miss Roosevelt by Mr. Hioki, the Chargé d'Affaires of Japan.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
~~TOKIO.~~

No. 377

January 23, 1906.

ASSISTANT SECRETARY,
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Mr. Wilson to Mr. Root.

SUBJECT: General Wright's nomination as Ambassador to Japan: confirming telegrams.

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AMERICAN LEGATION,
TOKIO.

No. 377. January 23, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

I have the honor to confirm the following telegrams interchanged between the Department and this legation with reference to ascertaining the acceptability of General Wright as Ambassador of the United States to Japan:

(Telegram received January 12, 4.15 P. M.)

Amembassy, Tokio.

The President proposes to appoint as Ambassador to Japan General Wright, the present Governor General Philippine Islands. Ascertain if this would be agreeable to the Japanese Government. Root.

(Telegram received January 17, 12.30 P. M.)

Wilson, Tokio.

Is there any question about acceptance of Wright? He is quite the most distinguished man available for the place. Failing him we should have to send some one much less conspicuous. Root.

(Telegram sent January 17, 9 P. M.)

Secstate, Washington.

January 17, 9 P. M. I am sure Wright will be accepted. The Japanese Government's delay in answering is due solely to routine formalities. I am expecting a reply in a day or two. Wilson.

(Telegram sent January 18, 5 P. M.)

Secstate, Washington.

January 18, 5 P. M. The Minister for Foreign Affairs asks me to inform you that His Majesty the Emperor of Japan will be glad to receive General Wright as Ambassador. Wilson.

On the afternoon of the 12th I sent the Minister for Foreign Affairs at his private residence a personal note, of which the enclosure is a copy, wherein I apprised His Excellency of the President's proposal of General Wright as ambassador, and asked him to let me know when I might call to learn whether this appointment would be agreeable to the Japanese Government.

Having heard that the question and answer regarding the acceptability of diplomatic representatives between European courts and that of Tokio customarily occupied about ten days, I attributed no significance to the delay of the Japanese Government's answer. It proved possible to confirm, by means of informal conversations, my conviction that General Wright would certainly be declared acceptable as Ambassador to the Japanese Court.

On the 18th instant I called upon the Minister for Foreign Affairs at his request and received from him the answer contained in the Legation's telegram of that date.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURE→Copy:

Mr. Wilson to Mr. Kato, January 12, 1906.

(Enclosure with Mr. Wilson's No. 377 of January 23, 1906)

COPY.

AMERICAN LEGATION, TOKIO,

January 12, 1906.

6.40 P. M.

My dear Mr. Kato,

I have just received a telegram from the Secretary of State directing me to ascertain whether the appointment of General Wright, whom the President proposes as Ambassador to Japan, would be agreeable to the Japanese Government. As Your Excellency is aware, General Wright is the present Governor-General of the Philippine Islands.

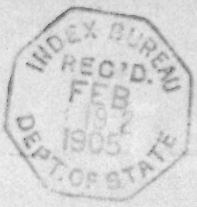
Will you be so kind as to inform me when I may call upon you to receive the desired information?

Very sincerely yours,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No.378. January 23, 1906.



Mr. Huntington Wilson to Mr. Root.

SUBJECT: Mr. Roger S. Greene's certificate of appointment as Vice and Deputy Consul at Kobe forwarded to him at Vladivostock.

AMERICAN LEGATION,
TOKIO.

No. 378.

January 23, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

In acknowledging the receipt of your instruction No.151 of December 18, 1905, I have the honor to inform you that I have today forwarded to Mr. Roger S. Greene, Commercial Agent at Vladivostok, his certificate of appointment as Vice and Deputy Consul at Kobe.

I have the honor to be,
Sir,
Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 379. January 25, 1906.

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Conveyance of the President's thanks for the "Japan Year Book".

AMERICAN LEGATION,
TOKIO.

No. 379.

January 25, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to report that under your instruction No.147 of the 5 ultimo, I have conveyed to the publishers of the "Japan Year Book" the thanks of the President for the specially bound copy of that publication recently transmitted through Mr. Griscom for presentation to him.

I have the honor to be,
Sir,
Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

Ans. Feb 24

No. 380.

January 25, 1906.

ASSISTANT SECRETARY,
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Mr. Smith Mr. Morrow

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Mr. Wilson to Mr. Root.

SUBJECT: Legation Clerk.

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AMERICAN LEGATION,
TOKIO.

No. 380. January 25, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to inform you that, inasmuch as C. A. Wheeler, who had been acting as clerk of this legation, returned to the United States with the Minister, the position of clerk has been occupied since November 16 by M. E. Hagin, a well-known missionary here, who has assisted merely in writing the record-books.

The amount of typewriting that has to be done at this legation is really more than can be done by the present reduced staff in addition to the rest of the work, which has lately further increased with the transfer to this mission of our diplomatic relations with Korea. A stenographer is therefore even much more needed here at present than in ordinary times.

For this reason I have today engaged C. J. Arnell to assist as clerk and stenographer, receiving a salary of Yen 166.92 ($83.13) per month in addition to his board and lodging. From the first proximo he will replace M. E. Hagin as clerk of the legation and will receive the Government 's allowance at the rate of $400 per year, in addition to which I shall personally provide him with board and lodging and pay him $50 per month.

Mr.

Mr. Arnell is an experienced stenographer and typewriter. He served as secretary and disbursing officer to the Philippine Government's Opium Commission in 1903 and 1904 and comes to me recommended by officials of the Government at Manila, under whom he has worked for three years.

Subject, of course, to the approval of the Department, I shall continue this arrangement until the Ambassador arrives here and assumes his post.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 381. January 27, 1906.

RECEIVED FEB 20 1906 DIVISION OF DISPATCHES DEPT. OF STATE.

ASSISTANT SECRETARY, FEB 20 1906

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Mr. Huntington Wilson to Mr. Root.

SUBJECT: Mr. Deshler's Korean emigration interests.

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AMERICAN LEGATION,
TOKIO.

No. 381. January 27, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to transmit herewith a copy of a letter, dated January 6th, addressed to this legation by Mr. D. W. Deshler, of his enclosed statement on the subject of Korean emigration and his interest therein, and of a brevet, with English translation, whereby the Emperor of Korea, under date of November 15th, 1902, gave Mr. Deshler a certain control over the emigration of Koreans.

1.

2.

3.

It seems that Mr. Deshler has been largely interested in the emigration of Koreans bound for the Hawaiian Islands and that his activity in the matter was cordially approved of by the Korean authorities. In April, 1905, owing to some trouble which arose out of the project of a certain company to send Korean laborers to Mexico, the entire prohibition of emigration was enforced. This embargo continues, pending the promulgation of suitable regulations. What Mr. Deshler desires is the co-operation of the Japanese authorities, in order to hasten the drawing up and putting into operation of the necessary emigration regulations.

Mr. Deshler is one of the Americans who

have

have considerable mining and other interests in Korea. He is the owner of three steamers under the American flag, which ply between Kobe and Korean ports. He was introduced to the legation by Mr. Morgan, lately Minister at Seoul, and has since called several times to seek our good offices, with a view to removing the obstacle to his again engaging in the emigration business.

As I understand that Korean immigrants are welcome in the Hawaiian Islands, I felt justified in mentioning the above matter informally to the Minister for Foreign Affairs, in whose hands I placed a copy of the enclosed correspondence.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

Enclosures:

1. Mr. D. W. Deshler to Mr. Huntington Wilson, January 6th, 1906.
2. Mr. D. W. Deshler to Mr. Huntington Wilson, undated.
3. Copy of brevet, with English translation.

Enclosure No. 1, with Mr. Wilson's No. 381, January 27, 1906.

DAVID W. DESHLER,

KOBE, J A P A N.

January 6th 1906.

My dear Mr Wilson:-

I beg to enclose you herewith a draft which I have prepared showing the position of Korean emigration, past and present. I had hoped to be able to present this in person, but some unexpected business compels me to leave Kobe for Moji tonight to be absent for a few days, but I expect to be in Tokyo on about the 10th or 11th. I am sending this by mail as possibly Mr Morgan would like to see it, and I am in hopes that it will reach Tokyo in time for him to do so. I have written him by this mail that I am sending the document forward.

This statement is simply submitted to get the benefit of your advice and any corrections which you think it will be advisable to make. On my arrival in Tokyo I will have very much pleasure in calling on you to learn the best thing to be done to bring about the desired result. The document I speak of I am not sending but will bring it with me when I come.

Thanking you sincerely for your kindinterest in thematter, which is greatly appreciated, I beg to remain,

Very faithfully yours,

D.W.Deshler.

Enclosure No. 2, with Mr. Wilson's No. 381, January 27, 1906.

Huntington Wilson Esquire,
Charge de Affaires, American Legation,
Tokyo, Japan.

Sir:

I beg to intrude on your valuable time for the purpose of setting forth the history and present conditions of matters relating to the emigration of Korean laborers from Korea to the Hawaiian Islands.

This work was organized after many failures and great difficulty, and the first emigrants left Korea on the 22nd of December 1902. From that time until the early part of April, 1905, the work went on without serious interruption and a total number of some seven thousand men, women and children emigrated to Hawaii to engage in work on the sugar plantations there.

On or about the 4th day of April, in the year 1905, an order was given under the name of the Korean Government, but with the consent and advice of His Excellency the Japanese Minister to Korea, prohibiting the further emigration of Koreans, no matter what their destination might be. On receipt of these advices the writer immediately went to Seoul and there had an interview with the Foreign Minister, Mr. Yi Ha Yung, and in reply to the protest made by the writer Mr Yi gave the following as his reason for taking the action he had.

That personally he was greatly in favour of the emigration to Hawaii; that he knew the management of the Company who represented the Territorial Bureau of Immigration in Korea had the reputation of having always safeguarded the interests of the emigrants in every way possible and that they had been treated with kindness and consideration; that he had personally recommended and advised many Koreans to go to Hawaii, some of whom had taken the advice and had done well in their new field

of labour; that on the whole he had not one single objection to offer to Korean emigration to Hawaii, but on the contrary was most strongly in favor of it.

He said that the reason for the stopping of the emigration was the fact that there had recently come to Korea a new and irresponsible Company, who, by the promise of high wages and other advantages, had induced some nine hundred Koreans to take passage on a vessel especially chartered to convey them to Mexico; that the management of this new Company did not meet with their approval, that they had misrepresented his views and opinions in the matter of the Korean emigration to Mexico, and that he did not consider Mexico a suitable place for Koreans to go to in any numbers; that he very much desired to stop the exploiting of Koreans and inducing them to emigrate to undesirable places by irresponsible people, and that in order to effectually stop this undesirable work he originally intended to prohibit the emigration of Koreans to Mexico, but that upon consultation with His Excellency the Japanese Minister to Korea, the Japanese Minister pointed out that it would be unfair to discriminate in favour of any emigration Company or country and that if one were stopped all must stop. Mr Yi then concluded that it was the easiest way out of the difficulty and the way best calculated to protect the interests and rights of his people to stop emigration entirely until such a time when laws and regulations could be drawn up and put in operation which would offer emigrants the desired protection.

The writer pointed out to Mr Yi that the work with which had devolved on the writer of sending emigrants to Hawaii was one which had been in operation for several years; that several thousand Koreans had already gone to Hawaii, and that the features of Hawaiian emigration were known to all, and that it had the approval of the Korean officials, the Korean

people and foreigners generally and of the majority of the missionaries, who saw in the work an opportunity for Koreans to improve their condition and to acquire useful knowledge and to better themselves financially.

Mr Yi replied that he was perfectly aware of this and that no one had any objection to Hawaiian emigration, and that it was a question of discrimination and he asked the writer to stop the work until such a time as the rules and regulations contemplated could be put into effect. This the writer did, and with the exception of a few men who had left their homes in the interior of Korea and gone to sea ports ready to embark, no one has left the country for Hawaii.

The writer pointed out to Mr Yi that he would personally be very glad to work under such rules and regulations as the Korean Government saw fit to enact to protect their countrymen and that the enforcement of the same would have his fullest sympathy and support. The writer further pointed out to Mr Yi that as a mark of confidence he had received a document from the Emperor of Korea authorizing him to take charge of all emigration matters in Korea, and that while the writer had the right to appeal from the order of the Foreign Office as directly interfering with rights granted him by the Sovereign he much preferred to work in harmony with the Government and not put any obstacles in the way of the enactment and enforcement of laws which he himself deemed to the best interests of the Koreans.

A period of nine months now having elapsed, it would seem that ample time had been had to have investigated emigration conditions and to have enacted suitable laws and regulations by which emigration could be carried on. The delay and interruption that this work has had has been of great financial loss to me, and I have the honor to request that

you will be kind enough to make such representations to the authorities at Tokyo as may seem best likely to tend to an early revival of this work. The document which the writer holds, and of which he begs to enclose you a copy and translation herewith, confers on him certain rights and privileges which he has been prevented from enjoying in the past nine months. It is the writers firm belief that there is no objection on the part of the Imperial Japanese Government to the emigration of Koreans, properly regulated, and the writer will be very glad to comply with any reasonable regulations which the Imperial Japanese Government may see fit to impose.

Begging for the above your kind consideration, I am, Sir,

Respectfully yours,

D. W. Deshler.

事務ニ關シ本國政府ノ訓令ヲ待ツ必要アル旨ヲ
米國政府ニ通知セラレタキ旨申出デタリ仍テ
此段及通牒候也

大正五年十月十五日

印

北米合衆國公使館

Enclosure No. 3, with Mr. Wilson's No. 381, January 27, 1906.

[Translation.]

The control of the laborers of Great Korea to be employed abroad is hereby given to Deshler, an American citizen.

The 15th Day of the 11th Month,
the 6th Year of Kobu, (1902).

The Emperor's
Personal Seal.

AMERICAN LEGATION,
TOKIO.

No. 382. January 29, 1906.

RECEIVED FEB 20 1906 DIPLOMATIC BUR. DEPT. OF STATE.

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ASSISTANT SECRETARY, FEB 20 1906

CHIEF CLERK FEB 19 1906 DEPARTMENT OF STATE.

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Exchange of official mail bags between Tokyo and Seoul suggested.

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AMERICAN LEGATION,
TOKIO.

No. 382. January 29, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

In view of the fact that the mail service between Tokyo and Seoul is found to be somewhat uncertain, and since now a great deal of correspondence has to be carried on between this legation and our Consulate-General at Seoul, I have the honor to suggest that, if it seem wise to the Department, I be authorized to arrange for an exchange of mail bags directly between the two offices. This could be done either through the postal authorities or by means of the Pacific Mail Steamers and Mr. Deshler's line from Kobe to Chemulpo.

The Imperial Ordinance organizing the Residency-General in Korea, a copy of which accompanied my dispatch Number 363 of the 2nd instant, leaves the matter of the division of foreign business between the Residency-General and the Foreign Office in Tokyo rather vague. The Minister for Foreign Affairs said to me that only matters of "high diplomacy" would be treated here and seemed disposed to have as much of the business as possible transacted with the Residency-General at Seoul. In order to accomplish anything, it is my opinion that in

important

important matters it will always be advisable to have pressure brought to bear simultaneously by this legation and by the Consulate-General at Seoul, which will, of course, involve very full and frequent correspondence between the Consulate-General and the legation.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 383. January 30, 1906.

ASSISTANT SECRETARY,
FEB 20 1906

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To the President, Feb. 21 06.

To the Secretary

Mr. Huntington Wilson to Mr. Root.

SUBJECT: The President's book presented to the Emperor.

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AMERICAN LEGATION,
TOKIO.

No. 383. January 30, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have had the honor to transmit, through the Minister for Foreign Affairs, a copy of the President's book, "Outdoor Pastimes of an "American Hunter", which accompanied your instruction Number 152 of the 21st ultimo, as a present from him to the Emperor of Japan.

Copies of my note to Mr. Kato, and of his reply, stating that His Majesty the Emperor had commanded him to convey to the President his deep appreciation and requesting me to communicate His Majesty's thanks, are enclosed herewith.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

Enclosures:

1. Mr. Huntington Wilson to Mr. Kato Takaaki, January 19, 1906.

2. Mr. Kato Takaaki to Mr. Huntington Wilson, January 29, 1906.

Enclosure No. 1, with Mr. Wilson's No. 383 , January 30, 1906.

AMERICAN LEGATION.

TOKYO.

No. 205. January 19, 1906.

Monsieur le Ministre:

Under instructions from the Secretary of State, I have the honor to forward to Your Excellency herewith, a copy of the President's book, "Outdoor Pastimes of an American Hunter".

The President sends this book as a present to His Majesty the Emperor of Japan and I have the honor to entrust to Your Excellency its conveyance to that high destination.

I seize this opportunity to renew to Your Excellency the assurances of my highest consideration.

Signed: Huntington Wilson.

To His Excellency

Kato Takaaki,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Enclosure No. 2, with Mr. Wilson's No. 383 , January 30, 1906.

Translation No. 8.

Department of Foreign Affairs,
Tokio, January 29th, 1906.

S i r :

In response to your note No. 205 of the 19th instant, forwarding a copy of the President's book, "Outdoor Pastimes of an American Hunter", sent by him as a present to His Majesty the Emperor, I beg to state that upon my immediate submission for the presentation of the book, His Majesty has graciously been pleased to accept the same, and has commanded me to express His profound satisfaction for the courtesy of the President, to whom I request you convey His Majesty's cordial expression of thanks.

Accept, Sir, the renewed assurances of my high consideration.

Signed: Takaaki Kato,
Minister for Foreign Affairs.

Huntington Wilson, Esq.,
Charge d'Affaires,
of the United States of America.

RECEIVED FEB 2 1906 DEPT. OF STATE

TELEGRAM RECEIVED IN CIPHER.

BUREAU OF APPOINTMENTS FEB 1 1906 Department of State.

From Tokio

Secretary of State, FEB 1 1906

Received February 1, 1906.

9:20 A. M.

Secretary of State,

Washington.

February 1 - 1 P. M. German Minister desires that the United States Consul at Formosa be authorized to act for the German Consul there during his absence of a fortnight from the sixth instant.

WILSON.

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Ciphered by ~~the Chief Clerk's Office~~,

O. G. S.

AMERICAN LEGATION,
TOKIO.

SOLICITOR'S OFFICE,
MAR
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339-7

No. 384.

February 1, 1906.

ASSISTANT SECRETARY,
MAR 5 1906

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CHIEF CLERK
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DEPARTMENT
OF STATE

To W.R.B. Campbell Mch. 20.
Noted and
To Dept. of Com. & Labor
Mch 22

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Properties of American merchants at Port Arthur.
Japanese Government finally grants permission for
investigation on the spot.

Copies of enclosures
Nos 1, 2 & 4 sent to
Chefoo. Nuclosure
Tientsin Mch 23/06
same
To Vladivostok Mch 24/06

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222 3/15/06 to Chefoo
567 from Chefoo

AMERICAN LEGATION,
TOKIO.

No. 384. February 1, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to the Legation's dispatch No. 372 of the 18th ultimo, I have the honor to forward herewith a copy of the Minister for Foreign Affairs' note of the 23rd informing me of an ordinance issued the 21st by the Governor-General of the Kwantung, under the terms of which foreigners may proceed to Port Arthur and Dalny to examine their properties temporarily abandoned there. A translation of the regulations as they appeared in full in the Official Gazette of January 23 is likewise enclosed. Besides prescribing the obligations of foreigners after their arrival within the jurisdiction of the Kwantung Government Office, the regulations provide that each application on the part of a foreigner for a permit to visit Port Arthur or Dalny shall be made through the diplomatic representative of his Government at Tokio, and shall be accompanied by a detailed list of the properties he wishes to investigate.

I have the honor to enclose also a copy of my note of January 24, renewing the request for permits for Messrs. Friede, Nielsen and Toritch to visit the Kwantung, and adding the name of Mr. Dunn of the American Trading

Company

Company. The required data in regard to the properties to be investigated by these gentlemen had long since been furnished by the Legation, with the exception of a list of the property of Mr. Friede, a proportion of whose interest consisted in important business papers, and in whose case a list was not available.

On the 25th ultimo the Legation made further inquiries at the Foreign Office; and on the following day the Minister for Foreign Affairs wrote to state that, in order to save time, the War Department would issue telegraphic instructions to the Kwantung authorities simultaneously with the issuance of the permits, whereby the applicants would be admitted pending their receipt of the permits by mail. A copy of Mr. Kato's communication is enclosed. On the same day informal inquiries as to when the permits might be expected were made at the War Office.

Major Yoshida telephoned to me on the 29th to say that the permits had been issued and would reach the Legation through the Foreign Office that day. I thereupon telegraphically informed the applicants, through our Consul-General at Shanghai, that they might proceed at once to Port Arthur and Dalny. Late in the afternoon I received from the Minister for Foreign Affairs three permits, with a letter, as enclosed, to the effect that Mr. Friede's could not be issued because no itemized statement of property had been submitted with his application. It was then evident that there had been a mistake in the above-mentioned message telephoned to the Legation, and the matter was thus left in a very awkward position, since Mr. Friede had already been notified that

he

he might set out for Port Arthur.

It was extremely disappointing that an imperfection in his application to the Legation should render fruitless in the case of Mr. Friede the efforts of many months; so that evening at a dinner at the Chinese Legation, I took the opportunity to speak to His Excellency, Mr. Kato, on the subject, and also to the Chief of the Political Bureau, under whose charge these vexed matters have been . I was sorry to find discouragement in that quarter. The Minister for War being present, I then stated Mr. Friede's case fully to His Excellency, and General Terauchi was kind enough to interest himself and to promise to see what could be done.

On the 31st of January I visited the War Office, and was later informed by telephone that the military authorities had overcome the technical difficulty and had issued Mr. Friede's permit, which reached this legation today, with a note from Mr. Kato as enclosed. The notification given Mr. Friede on the 29th thus becomes effective, and since that date all the Americans now desiring to visit the Kwantung are at liberty to go there.

Telegrams from the American merchants concerned have continued to show anxiety in regard to their interests, and I have had the honor to report this matter very exhaustively, as it may interest you to know what efforts have been required to obtain permission for them to revisit the ports of the Liaotung Peninsula even at the present very late date, in view of the bearing of the subject upon foreign commercial interests in Manchuria and upon the attitude which the Japanese are disposed to assume towards them.

I

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

Enclosures:

1. Mr. Kato Takaaki to Mr. Huntington Wilson, January 23, 1906.

2. Copy of translated regulations.

3. Mr. Huntington Wilson to Mr. Kato Takaaki, January 24, 1906.

4. Mr. Kato Takaaki to Mr. Huntington Wilson, January 26, 1906.

5. Mr. Kato Takaaki to Mr. Huntington Wilson, January 29, 1906.

6. Mr. Kato Takaaki to Mr. Huntington Wilson, January 31, 1906.

Enclosure No. 1, with Mr. Wilson's No. 384, February 1, 1906.

Translation.

No. 6.

Department of Foreign Affairs,
Tokio, January 23, 1906.

S i r :

In compliance with the request of the Minister of War I have the honour to inform you that, while the sailing of foreigners to Port Arthur, Tairen and other places within the jurisdiction of the Governor-General of Kwang-Tung has hitherto been prohibited in consequence of military necessity of the Imperial Forces during the war, the Governor-General of Kwang-Tung issued an ordinance under date of the 21st instant (vide today's Official Gazette) stating that such foreigners as left behind their private property when they withdrew from those places or their agents, who will sail there, shall be permitted to examine, dispose of, or take away such property. Therefore the Minister of War will grant permits to sail to those places to owners of such property or their agents, if application is made through the Diplomatic Representative resident in this country under the following conditions:-

1. No persons other than the owners of the private property left behind in the various places under the jurisdiction of the Governor-General of Kwang-Tung at the time of their

Huntington Wilson, Esqre.,
Chargé d'Affaires of the
United States of America.

their withdrawal from those places or their agents, who will sail with the object of examining, disposing of or taking away such property, shall be permitted to sail.

2. The applicants shall send in at the time of application a paper stating in full the dates of withdrawal from the various places and the locations, names, quantities and valuesof the property left behind.

3. Only one agent shall be permitted for each owner of said property; in case any such property is owned in common by several persons, one of such persons shall be permitted tc sail.

4. The person who is permitted to sail may take three employees with him.

5. The person who is permitted to sail shall be required, during their stay in any places under the jurisdiction of the Governor-General of Kwang-Tung, to comply with the Regulations or Orders issued by the Military authorities having jurisdiction.

Accept, Sir, the renewed assurances of my high consideration.

Signed: Kato Takaaki,

Minister for Foreign Affairs.

Enclosure No. 2, with Mr. Wilson's No. 384 , February 1, 1906.

Translation.

REGULATIONS FOR CONTROLLING TRAVELERS GOING TO DALNY, PORT ARTHUR, ETC., FOR THE PURPOSE OF EXAMINING PROPERTIES LEFT IN THOSE PLACES.

Issued by the Governor-General of Kwantung, January 21, 1906.

I. If the owners of private properties left by them at the time of withdrawal in the Province of Kwantung or within the jurisdiction of the Governor-General of Kwantung, or the representatives of those property owners, proceed to Dalny or Port Arthur, bearing the permits issued by the War Department , they may examine, settle, or carry away their properties in accordance with these regulations.

II. The travelers to those places who formerly left their properties at Port Arthur and other places, shall respectively report in writing to the Branch Office of the Civil Governor at Port Arthur and to the Civil Governor's Office at Dalny. In the said report, the travelers and their companions shall state their nationality, names, age, occupations, home

home addresses, present addresses, and the reasons for coming thither. A copy each of their permits issued by the War Department shall be attached to the report.

III. The travelers shall stay in the city of Dalny or Port Arthur. In case of necessity for going out of the city limit for the purpose of examining their properties, they shall apply for permission to the Civil Governor's Office or the Branch Office of the same.

IV. Those private properties which are left in those places without any trustees appointed and are in the custody of the military authorities, shall be returned to the owners on application by the owners or their representatives for the recovery of their properties only within eight months from the date of the promulgation of these regulations.

V. In the application referred to in the previous article shall be stated in Japanese the names, nature, number, quantity and value, as well as the place and time of leaving properties.

VI. Concerning the examination, settlement and carrying away of properties left in the places mentioned in these regulations, the directions and orders of the military authorities shall be observed and obeyed.

VII. The period of sojourn for the purpose of examining, settling and carrying away the properties referred

referred to in these regulations shall not be longer than a month.

The Civil Governor may, however, shorten or prolong the period according to expediency.

VIII. Besides all these regulations, the travelers shall observe and obey the regulations and orders in force within the jurisdiction of the Governor-General of Kwantung.

(Official Gazette, January 23, 1906.)

Enclosure No. 3, with Mr. Wilson's No. 384 , February 1, 1906.

AMERICAN LEGATION.

TOKYO.

No. 208. January 24, 1906.

Monsieur le Ministre :

In reiterating the request contained in this legation's note No. 204 of the 13th instant, that permits to visit Port Arthur and Dalny be issued to Mr. C. Nielsen, representing the American firm of Clarkson and Company, and to Messrs. S. Friede and W. Toritch, with the minimum possible delay, I have the honor to add the request that such a permit be similarly issued to Mr. W. E. Dunn, representing the American Trading Company.

Your Excellency's note No. 6 of yesterday, the receipt of which I now have the honor to acknowledge , mentions certain data required by the War Department as a preliminary to the issuance of such permits. With regard to these particulars I have the honor to refer Your Excellency to this legation's notes Nos. 116 of February 21, 1905, 122 of March 3, 1905, 160, 161, 162 and 163 of August 3, 1905, and to a Memorandum of the last mentioned date, with which were transmitted lists of properties belonging to Messrs. Clarkson and Company, the American Trading Company, and Mr. Toritch.

In

o His Excellency,

Kato Takaaki,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

In the case of Mr. Friede, his property left at Port Arthur consists in large measure of valuable documents and private papers, a detailed list of which is not available.

I seize this opportunity to renew to Your Excellency the assurances of my highest consideration.

Signed. Huntington Wilson.

Enclosure No. 4, with Mr. Wilson's No. 384, February 1, 1906.

Translation.

Tokyo, January 26, 1906.

S i r :

Concerning the regulations issued on the 21st instant by the Governor-General of Kwantung for controlling travelers proceeding to Port Arthur and other places for the purpose of examining, carrying away, etc. their properties, I beg leave to refer you to Article I of the same, which reads, "Those who proceed to Dalny or Port Arthur bearing the permits issued by the War Department. . . . . ", as a special arrangement has been made by this Department with the military authorities for the sake of those who are now in distant places outside of Japan. In case any of those travelers should desire to proceed direct to Dalny or Port Arthur, without coming to Japan, on account of his staying in a distant place outside of Japan, the War Department shall notify the Civil Governor of Kwantung by telegram as soon as a permit is issued for the applicant. For the sake of convenience, the military authorities at Dalny or Port Arthur are to permit his landing on the strength of the telegraphic notification referred to. As to the copy of the

To His Excellency
Chargé d'Affaires of the
United States of America.

the permit required in connection with the application mentioned in Article II of these regulations, it shall be presented to the military authorities by the applicant upon its receipt. The above arrangement has been agreed upon by the War Department and the Governor-General of Kwantung, and I hereby have the honor to inform you of the result of consultations between the authorities concerned.

I have the honor to be,

Sir,

Your obedient servant,

Signed: Kato,

Minister of Foreign Affairs.

Enclosure No. 5, with Mr. Wilson's No. 384 , February 1, 1906.

Translation.

Tokio, January 29, 1906.

S i r :

I beg to acknowledge the receipt of your note No. 208, dated January 24, relating to the application for permitting Mr. C. Nielsen, representative of Clarkson and Company, and three other gentlemen to go to Port Arthur. The Minister of War, to whom the matter was referred, has issued three permits for Messrs. C. Nielsen, E. Dunn and W. Toritch, and I have the honor herewith to forward them to you. I also beg to inform you that Mr. Friede's application cannot be granted unless he sends in an itemized statement for application, concerning which I beg to refer you to my note No. 6, dated January 24; as he states that he intends merely to go to Port Arthur for the purpose of searching some important documents . As to Mr. Friede's case, I wish to say that I am repeating the statement of the authorities concerned.

I have the honor to be,

Sir,

Your obedient servant,

Signed: Kato.

Minister for Foreign Affairs.

His Excellency,

Charge d'Affaires of the

United States of America.

P. S.

P. S.

The authorities concerned have sent a telegram to the Civil Governor's Office at Dalny concerning the permission granted to the three gentlemen whose names are mentioned in the body of this note. It is therefore to be understood that there will be no trouble now for them to proceed to the places they wish to go to.

Enclosure No. 6, with Mr. Wilson's No. 384, February 1, 1906.

Translation.

Tokyo, January 31, 1906.

S i r :

In reply to your communication concerning the application for permitting Mr. W. S. Friede, a citizen of your country, to go to Port Arthur and Dalny, I addressed you an informal note dated the 29th instant. I have, however, received a permit for him from the War Department, and I have the honor herewith to forward it to you. The Minister of War states that in issuing the permit a special arrangement has been made for the present case, as you said that the documents for the application would be presented in accordance with the regulations. As to the documents in question, I wish to request you to present them as soon as possible, for the forms of which I beg to refer you to my note No. 6, dated January 23. The Minister of War also states that the arrangement made by the authorities in dealing with the present case is due to a special favor, and it is to be understood that it shall not be regarded as a precedent

for

His Excellency,

Chargé d'Affaires of the

United States of America.

for cases of similar nature.

I have the honor to be,

Sir,

Your obedient servant,

Signed: Kato.

Minister for Foreign Affairs.

Office of the Solicitor.

Mar. 12, 1906.

Dip. Bureau:

Copy enclosures 1 and 2 to the various applicants for permission to enter Port Arthur to identify their property.

J. B. A.

Return to this office after action.

also to ~~communicate~~ Copy them to Commerce & Labor for Consular & Trade Reports.

J. B. A.

Mr. Smith: substance given to press by 1 & 2 Cs

Office of the Solicitor.

Mar. 19, 1906.

Dep. Bureau:

It would seem quite advisable to give the substance of Encs. 1 & 2 to the Press, and also to ~~communicate~~ copy them to Commerce & Labor for Consular & Trade Reports.

Mr. Smith: Substance given to Press by 1 & 2 Ch.

AMERICAN LEGATION,
TOKIO.

No.385. February 5, 1906.

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MAR 5 1906

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CHIEF CLERK
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MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Permission for Mr. Consul Fisher to act temporarily at Tamsui, Formosa, for the German Consul. --Confirms exchange of telegrams.

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AMERICAN LEGATION,
TOKIO.

No. 385. February 5, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm below my cipher telegram and to acknowledge and confirm your reply, in regard to the authorization of Mr. Fisher, Consul of the United States in Formosa, to act for his German colleague during the latter's absence from his post.

Reading of cipher telegram sent February 1:

"Secstate, Washington. February 1, 1
"P. M. The German Minister desires that the U-
"nited States Consul at Formosa be authorized to
"act for the German Consul there during his ab-
"sence of a fortnight from the sixth instant.
"Wilson."

Telegram received February 2.

"Amembassy, Tokyo. Consul Formosa may
"act temporarily for German consul. Instruct
"him. Root."

On the 1st instant Count d'Arco Valley, the German Minister here, called upon me to request that

that Mr. Fisher might take charge of the German Consulate at Daitotei for a fortnight from the 6th instant, while the German Consul was absent on a visit to Japan for the benefit of his health.

Since this case does not seem to be one of emergency in the sense of Paragraph 453 of the Consular Regulations, I did not feel justified in instructing Mr. Fisher temporarily to act for the German Consul without first obtaining the permission of the Department.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

CONFIDENTIAL.

AMERICAN LEGATION,
TOKIO.

No.386. February 5, 1906.

RECEIVED MAR 6 1906 DIPLOMATIC BUR. DEPT. OF STATE.

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ASSISTANT SECRETARY, MAR 5 1906 Lack file

Feb 28 Inst. 8 pgs

CHIEF CLERK MAR 5 1906 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Rumor of sale of Philippines:---how received:---Japanese feeling about those islands:---Japan's ambitions and policies.

SYNOPSIS: Romored disposition to sell Philippines to Japan: how received by press; how received by Filipino colony: Japanese relations with Filipinos and feeling about the Philippines; Japanese emigration; ambitions and expansion: present position on Asiatic mainland: close educational and commercial relations with China: natural ties between Chinese and Japanese: Japan's future power in the Orient: question of the sincerity of her Government.

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AMERICAN LEGATION,
TOKIO.

CONFIDENTIAL.

No. February 5, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to subjoin as an enclosure herewith translations of a number of press telegrams which reached Tokio on January 24 and 25 and gave publicity to a rumor, apparently emanating from London and given currency by the "Times", to the effect that the United States was inclined to dispose of the Philippine Islands by sale to Japan. The telegrams seem to indicate that this singular story is associated with the fact that the former Governor-General of the Philippines is to be accredited to Japan as American Ambassador. There has been no editorial comment upon this subject and none of the vernacular papers appeared to receive the report seriously.

I was interested to hear that the rumor was received with dismay by the Filipinos in Tokio. As the Department is doubtless aware, the Philippines Secret Service has kept an agent in Tokio for about a year and a half for the purpose of watching any relations of a political character which might exist between Filipinos and Japanese. This arrangement was instituted under Governor-General Wright's direction in the summer of 1904, in view of rumored relations between the Hongkong Junta of Filipino revolu-

tionaries

tionaries and the Japanese, by whom it was suspected arms might be shipped to the Philippines for use against the United States. The secret service agent, a Japanese speaking Filipino who assumes the name of Antonio Bartolome, received his salary from Manila through the Legation, and so I often had opportunities to hear what he had observed.

By instructions from Manila Bartolome's service was terminated December 31, for the reason, I understand, that the situation was not thought to warrant his further retention. He is still in Tokio and called upon me a few days ago. In reply to my questions as to how this "canard" was received here, he said that it had caused some excitement among the Filipino colony, and that several telegrams had passed between its most prominent member, Tomas Arejola the noted revolutionist, and the Hongkong Junta. Bartolome gave me to understand that the Filipinos were alarmed because they would dislike Japanese domination much more than they do American; that they had observed Japanese rule in Formosa, et cetera. He stated that Arejola had called three times in one day and finally succeeded in seeing Count Okuma, the leader of the Progressists Party, who had reassured him that Japan had no designs in that quarter.

According to Bartolome, Count Okuma has always been in close touch with the Filipino colony in Tokio; and it is interesting to remember in this context that it was he who as Minister for Foreign Affairs wrote to this legation in a note verbale of June 21, 1897, on the subject of our annexation of the Hawaiian Islands, the following words:

"- - - - The Imperial Government have learned with sur-
"prise of the signature at Washington on the 16th instant
"of a treaty providing for the annexation of Hawaii to the
"United States. They view with grave concern and serious
"objection the new order of things contemplated by that

"Treaty

"Treaty, since they are convinced that a realization of the "project of annexation would render imminent a disturbance "of the general status quo in the Pacific; - - - - -".

To those who thought with Count Okuma, the possession of the Philippines by a strong power must have been a disappointment. It is only natural that many a Japanese eye must have been cast covetously upon those islands, because to be an island empire has seemed Japan's destiny, despite the tradition that the ascendant in Korea was a necessity to her.

Moreover, the natural trend of Japanese immigration is always into warm climates, as evidenced by the popularity of the Hawaiian Islands as a destination for emigrants, and the fact that Hokkaido, the large and rich northern island of this Empire, remains today very sparsely populated, in spite of the Government's efforts to encourage immigration thither. Likewise in the case of Korea, to which immigration has been invited by patriotic motives, by the extreme convenience of the journey of only eight hours across the straits, and doubtless also by Government encouragement, the immigration has consisted largely of adventurers and other Japanese of a decidedly inferior class.

Many Japanese doubtless feel that the Philippines would be an ideal outlet for the rapidly increasing surplus population of Japan, because they have the climate most tempting to the Japanese emigrant, their agricultural and mineral resources afford labor peculiarly adapted to Japanese abilities, and their exports and imports would be most valuable to the Japanese consumer and producer.

This point of view was emphasized yesterday by Baron Hisaya Iwasaki, brother-in-law of the Minister for Foreign Affairs and who is the wealthiest man in Japan, in speaking to Mr. Laughlin, Second Secretary of this legation

who

who happened to be paying him a friendly call. Mr. Laughlin tells me that Baron Iwasaki showed much interest and asked him whether there was any truth in the rumor that the United States wished to dispose of the Philippines to Japan and said very earnestly that Japan did indeed wish very much to own those islands as a field for the expansion of her surplus population. The Baron added that he personally wished for their acquisition for commercial reasons, and said that he saw no good reason why the present should be an unfavorable moment, and that as to the money question it would depend entirely on what amount the United States would ask. He then wanted to know how much our Government had expended on the islands up to this time. In view of their source, and as illustrating one Japanese viewpoint, I think it proper to give an account of these remarks. It is hardly necessary to add that Mr. Laughlin made light of the rumors and merely listened to what Baron Iwasaki had to say.

Now that Japan is actually involved on the mainland of Asia by her virtual protectorate over Korea and by her ownership of or interst in the major part of the Manchurian railways, as well as in the Kwantung, her slender financial resources and the enterprise of her people would seem for the moment to be taxed to their limit without further territorial expansion.

Nevertheless, although their hands may be too full at present to admit of any likelihood that a fresh field for expansion would be desired by the Government at this time, yet the ambition and devotion of the Japanese people are so tremendous that one can set no bounds to their future policies in this part of the world.

They have a protectorate over Korea; they occupy the Kwantung, with its commercial port of Dalny and with Port Arthur at the gate to the Gulf of Pechili; they are now

now establishing themselves in a preponderating position in Manchuria; they also claim as a sphere of influence the province of Fukien, opposite Formosa, where in December 1900 they opposed the wish of the United States to negotiate with China for a coaling station at Samsa Inlet. Large numbers of Chinese students are being educated in Japan; Japanese teachers are educating students in China and Japanese officers are training soldiers there; and Japanese merchandise and manufactures are said to be insinuating themselves into North China with amazing rapidity.

Due to her accession of political power and to this rapprochement, Japan seems indeed on a road which may lead to an overwhelming position in the Far East. The blood relationship between the Chinese and Japanese, their common writing, their common basic civilization, all tend to facilitate the forming of peculiarly close relations between the two peoples in this hour of China's awakening. Will Japan really use her resultant political potentiality with China for the maintenance of the principle and the spirit of equal opportunity and the policies advocated by the United States, or will she be at work beneath the surface for herself only, and for the Orient against the West? As this is a Government with all the Oriental inscrutability and talent for intrigue, shrewd and calculating, there may be grounds for such fears, and Japanese protestations of disinterestedness may call for close examination.

I have the honor to be,

Sir,

Your obedient servant,

Hunt Wilson.

ENCLOSURE:

Copy of telegrams, as above.

Enclosure No. — , with Mr. Wilson's No. 386, February 5, 1906.

From the "Tokyo Asahi".

"London, January 23,- The "London Times" New "York correspondent states that Mr. Wright, the new Ameri- "can ambassador to Tokyo, is authorized to open negotia- "tions for the sale of the Philippines to Japan. The "American government repents the retention of the is- "lands, for they do not pay."

From the "Nichi Nichi".

"London, January 23,- Rumours that America "wishes to sell the Philippines to Japan are discussed "here in all seriousness. The "Times" considers it wor- "thy of attention that such a report finds credence. It "further states that America's attitude regarding the "Philippines has changed, and now most Americans regret "the occupation of the islands."

From the "Japan Times". (Printed in English.)

"London, via Shanghai, January 24,- Rumours are "persistent in New York that Mr. L. Wright, Ex-Governor- "General of the Philippine Islands, now coming to Japan "as ambassador, is empowered to discuss with the Tokyo "government the question of selling the Philippines, as "the American government regrets the acquisition of the "islands, and finds them costly and burdensome."

"Berlin, January 24,- The "London Times" reports "that the United States are willing to sell the Philip- "pines to Japan. This report is judged in Berlin as in- "tended to sound the Japanese government on the affair. "No confirmation has yet come from Washington."

AMERICAN LEGATION,
TOKIO.

RECEIVED
MAR 6 1906
DIPLOMATIC BUR. DEPT. OF STATE

No. 387. February 8, 1906.

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MAR 5 1906

CHIEF CLERK
MAR 5
DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Visit of Assistant Naval Constructor Du Bose, U.S.N., to Japanese shipyards in the neighborhood of Yokohama and Nagasaki.

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AMERICAN LEGATION,
TOKIO.

No. 387.

February 8, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to report that in pursuance of your instruction No. 154, of the 4th ultimo, on the 1st instant I requested the Japanese Government to permit Assistant Naval Constructor Du Bose, United States Navy, to visit the shipyards in the neighborhood of Yokohama and Nagasaki, and that the desired permission was at once granted.

On the 5 instant Assistant Constructor Du Bose, in company with the Naval Attaché of this legation, visited the shipyards at Yokosuka, and left yesterday for Sasebo to continue his inspection.

I have the honor to be,
Sir,
Your obedient servant,

Hamlin Caldwell.

TELEGRAM RECEIVED

From Tokio

Feb 12, 1906.

Received 2 36 P.M.

Sec State,

Wash.

Twelfth Second Chinese Commissioners mentioned dispatch 359 sail Seattle tomorrow steamship Dakota suite 27 and nine servants Commissioners and parte of suite visit Washington few days

Wilson

DEPARTMENT OF STATE

FEB 12 3 01 PM 1906

CHIEF CLERK'S OFFICE

DEPARTMENT OF STATE.

Second Assistant Secretary's Room.

MEMORANDUM.

Feb. 13, 1906

It appears from Mr. Wilson's despatch (359) that this second Chinese Commission (consisting of His Highness Prince Tsai Tsu, and their Excellencies Shang Chi Hung and Li Sheng To) have been for a month in Japan and will now proceed to England, Belgium and Russia, via the United States. I infer that their purpose therefore is to visit the countries not included in the itinerary of the first Commission. But they will visit Washington for a few days. Probably the next mail from China will give further information.

Diplomatic Bureau:

Notify Commerce and Labor and Treasury of the facts and date of arrival.

Wilso
Feb. 15

AMERICAN LEGATION,
TOKIO.

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Mr. Huntington Wilson to Mr. Root.

Subject:- Chinese Commissioners visiting Washington on the way to Europe.

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AMERICAN LEGATION,
TOKIO.

No. 388. February 12, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to confirm my telegram of this date as follows:

"Twelfth. Second Chinese commissioners, mentioned dispatch 359, sail Seattle tomorrow, steamship 'Dakota' Suite 27 and nine servants. Commissioners and part of suite visit Washington few days."

This commission consists of H. I. H. Prince Tsai Tseh, a cousin of the Emperor of China and a general of the eight Banner Corps, and their Excellencies Shang Chi Heng, lately Acting Governor of Shantung and former Provincial Treasurer of that Province, and Li Sheng To, former Minister to Japan and now appointed Minister to Belgium, with a suite of twenty-seven secretaries and attachés, and nine servants.

After spending a day or two in Seattle, the Commissioners with a small number of their staff will go on to Washington and pass a few days there. The remainder of the staff will proceed directly to New York, whence the whole party will shortly sail for Europe.

The Commissioners carry credentials to Great Britain, France, and Belgium, as well as to Japan, and

their

their short sojourn in Europe will be given chiefly to observations in those countries. They have spent about a month in Japan.

While officially visiting Tokio Prince Tsai Tseh and his party were put up at the Shiba Detached Palace, where guests of the highest distinction are usually entertained, and a few dinners were given in their honor; but beyond this official recognition the Japanese Government has not exerted itself to any extent towards their entertainment.

From their treatment here I am not fully able to judge whether these commissioners are men of sufficient influence in China to serve as a useful medium for bringing pressure to bear upon the Chinese Government. Possibly this very treatment may be taken as an indication that the perceptions of the Japanese as a nation in close touch with China recognize as true today the remark of Lord Elgin in 1858, when he spoke of "the painfulness of the position of "a negotiator who has to treat with persons who yield no- "thing to reason and everything to fear, and who are at the "same time profoundly ignorant of the subjects under dis- "cussion and of their own real interests."

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 389. February 13, 1906.

ASSISTANT SECRETARY,
MAR 7 1906

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CHIEF CLERK
MAR
DEPARTMENT
OF STATE.

Tokio
March 6
File Copy

Mr. Huntington Wilson to Mr. Root.

Subject:- Japanese policy in Korea as outlined in Marquis Ito's speeches.

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AMERICAN LEGATION,
TOKIO.

No. 389. February 13, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to enclose clippings from the "Japan Mail" reporting Marquis Ito's speech to the local editors in Seoul last November, after he had signed the Japan-Korea Convention, and giving also the gist of the Marquis's address at the dinner given by him to the leading journalists of Tokio, and a translation of his remarks to the members of the Constitutionalist Party, both of which latter were delivered early this month on the eve of his Excellency's departure from Tokio for Korea.

Marquis Ito's Seoul speech was designed to dispel the idea that Korea is to be considered fair prey for the Japanese, and to persuade the Koreans that although their foreign relations are taken over by Japan, yet the prestige of their Court is upheld and the machinery of the Government is to remain under the direction of the Korean Emperor. The desire of Japan to restore to Korea the control of her foreign relations when that country's development might make possible such a course is also asserted. Along with these efforts to console the Koreans, the Marquis proceeded to enjoin upon the Japanese consideration and kindness towards the Korean people.

In his address to the Tokio journalists Marquis Ito mentions some of the specific tasks before him and then speaks

speaks of the corruption of Korean administration and the need of its reform, and the poverty of the people. The Marquis makes the point that , since Japan has undertaken the defense of Korea and must keep a garrison there, and the expense on behalf of Korea will grow quite considerable with the new order of things, there is imperative need of introducing improvements in agriculture, engineering, forestry, and such matters, in order to increase the wealth of the Koreans so that they may bear as far as possible the expense of all Korean enterprises, instead of leaving these to be borne by the Japanese. His Excellency then looks forward to an increased Japanese immigration to Korea. In this connection he strongly condemns the harsh treatment of the Koreans by many of the bad sort of Japanese now in that country, and promises to take ample measures for dealing with that class of offenders, whom he blames for Korean dislike of the Japanese. In closing he invites the views of the press in regard to his policy thus outlined.

Marquis Ito's taking the press into his confidence and asking an expression of journalistic opinion was a great innovation in Japan, and was profoundly appreciated by the newspapers. This will no doubt go far to bring him public support in his work. To show how heartily the proposed policy of the Resident-General is approved by the journals, I have the honor to enclose a clipping from the "Japan Times" containing an epitome of the comment of some of the principal newspapers.

4

In addressing the members of the Constitutionalist Party Marquis Ito emphasized the gravity of the Korean problem and charged his hearers with the duty of impressing the Koreans with the community of interests of the two countries, of dispelling their suspicions and gaining their confidence. Before leaving the subject of Korea, his Excel-

lency

cellency said,"It is not with regard to Korea alone but "with regard to the whole problem of the Far East that no- "thing opposed to the sentiment of the powers should be "done. No strong country whatsoever can march forward in- "dependently and at its own arbitrary convenience. If "Japan, puffed up by her victories in war, should forfeit "the sympathy of the powers, she will be laying up for her- "self misfortune in the future."

At an informal interview which I had with the Marquis Ito on the 2nd instant his Excellency gave the most satisfactory assurances along these same lines, and especially referred to the attention he would give to the open door policy as to which the United States, Great Britain, and Japan were in accord.

At the same interview the new Resident-General spoke in an exceedingly friendly manner of the American missionaries in Korea, the correctness of whose attitude towards the Koreans, in the delicate position in which they were placed during the excitement following the signature of the new treaty, is without doubt appreciated by the Japanese.

The tone of what the Marquis Ito has said on these occasions is very conservative, earnest, and sincere. His speeches are interesting as announcing the Japanese Government's Korean policy by the mouth of the greatest Japanese statesman and the man who is to undertake the very delicate and onerous labors of the first Resident-General at Seoul. He goes to take up his post in Korea after giving to the world expressions of the most high-minded intentions of protecting and bettering the condition of the Koreans, of improving and controlling the conduct of the Japanese immigrants, and of giving full consideration to the interests of other powers. With such explicit guarantees, there

there is every reason to expect that American interests in Korea will receive good treatment under the new regime.

I have the honor to be,

Sir,

Your obedient servant,

Hugh Tinglon Wilson.

CLOSURES:

1. From "Japan Mail", November 30.
2. From "Japan Mail", February 3.
3. From "Japan Times", February 3.
4. From "Japan Mail", February 8,--duplicate clippings.

CLOSURE NO.1 WITH MR. HUNTINGTON WILSON'S NO.389 OF FEBRUARY 13, 1906.

The Japan Daily Mail.

YOKOHAMA, THURSDAY, NOVEMBER 30, 1905.

KOREA.

Marquis Ito has made an address to the various newspaper editors in Seoul, whom His Excellency invited to luncheon for the purpose. He is reported to have said:—"It is most desirable that newspaper editors, in conveying information about Korean affairs to Japan, should exercise the utmost caution so as to avoid misleading the Japanese people. Some people in Japan seem to imagine that the new convention has placed Korea in the hollow of Japan's hand and has virtually contrived the overthrow of the empire. Such a view is as precipitate as that referred to in the Chinese proverb where the egg is mistaken for the crow of the full grown cock. It is true that Japan has assumed the charge of Korea's foreign affairs, but on the other hand, the Emperor of Japan has sent his special ambassador to convey to the Korean Court a solemn assurance of the preservation of its safety and prestige. That is a point of the greatest importance. Further it need scarcely be stated that the machinery of administration remains as before under the control and direction of His Majesty the Emperor. At a moment of such changes the Koreans themselves were likely to fall into greater errors than the Japanese. Therefore the policy to be hereafter pursued towards Korea would be informed by the utmost sincerity of act and intention. She would be assisted and led along the paths of gradual progress, and everything savouring of precipitate pressure would be avoided. When I had the honour of being received by His Majesty the Emperor of Korea with reference to the terms of the new Treaty, His Majesty expressed and seemed profoundly moved by the fact that even in the days when Korea used the Chinese almanack and was in effect a tributary of China, she nevertheless retained the control of her own foreign affairs, whereas now in the reign of His Majesty after his dynasty had continued for 500 years, he was asked to sign a Convention which would destroy his Empire and render him guilty in the sight of his ancestors. I accordingly sought to resolve His Majesty's doubts by pointing out in the utmost detail that the vicissitudes of the time rendered this inevitable, and that so soon as Korea's development had become assured it was the earnest desire of the Japanese Government to restore to her forthwith the direction of her own foreign affairs. When the time came for signing the Convention, the Prime Minister, Mr. Han Kyuhwa, sobbed with emotion and seemed wholly overcome. These things render it imperative that Japan, being the pioneer in progress, should behave towards all classes in Korea with the utmost circumspection and sincerity so that her true purpose may not be mistaken or her intentions doubted. A residency-general will be established, but as to its personnel nothing will be known until after my return to Japan. There can, however, be no error in explicitly asserting that the policy of the Resident-General will not be in any sense revolutionary but will be one of gradual progress. If the state of affairs in Korea be examined, it is found that the relations between Sovereign and subject, government and governed, are of a very distant nature, and are by no means so close as those in Japan. Hence it becomes inevitable to adopt towards the Government measures of a more or less compulsory nature. The people, however, are eminently peaceful and quiet, and towards them therefore the policy pursued must be one of gentle persuasion. Those are points which have to be kept in view not merely by our officials but also by all Japanese subjects residing in Korea. Such Japanese subjects must carefully refrain from all acts of violence to which their country's victories may prompt them, and must be guided by a spirit of kindness in their dealings with the Koreans. Already the United States Representative in Seoul has received instructions from his Government for the removal of the Legation and it may be assumed that other Powers will similarly recognise Japan's convention. It will then be for Japan not to forget the duties that heaven has delegated to her, but to lead Korea gently and helpfully along the path of progress, for assuredly anything like arbitrary or coercive conduct will earn for Korea the sympathy of the nations and will defeat the true and abiding policy of Japan."

The Japan Daily Mail.

YOKOHAMA, SATURDAY, FEBRUARY 3, 1906.

MARQUIS ITO'S SPEECH.

The reports of Marquis Ito's speech at the dinner given by His Excellency to the leading journalists of Tokyo are not at all as full as is desirable. The gist of what the distinguished statesman said, however, may be gathered pretty clearly :—

GENTLEMEN,—As I am starting soon for Korea I have invited you this evening for the purpose of laying before you a general statement of the hopes I entertain with regard to the affairs of that country and for the purpose of learning your views. On the 17th of last November the fundamental relations between this Empire and Korea were settled by treaty, but the provisions were very brief. They did not do more than fix foundations, leaving the superstructure of details and the consummation of purposes to depend upon the method of applying the covenant. For example, with regard to business arising out of discussions between the Foreign Consuls and the Korean Local Officials, it was arranged that our Residents should discharge it, but concerning the relations between the latter and the Local Officials the details of procedure have still to be enacted. Thus it must be settled that there shall devolve on the Korean Local Officials the duty of immediately carrying out, on receipt of a communication in that sense from our Residents, any business about which representation have been made by the Foreign Consuls, and again, in the event of the Local Officials failing or neglecting to discharge such duty, it must be decided that orders to discharge it forthwith shall be conveyed to them in the sequel of reports to the Emperor of Korea or of communications to the Korean Government. Among such matters there will be, on the one hand, some with regard to which the Japanese Government must approach foreign Governments by way of preliminary, and on the other hand, there will be some calling for the arrangement with the Korean Government of an accurate line of procedure. In the case of the former I hope that before I assume office they will have been disposed of, and in the case of the latter I hope to settle them myself after careful consultation with the Korean Government snbsequently to my arrival in Seoul.

As for the reform of the Korean Administration, it will be the duty of the Government of this Empire to take it upon itself in accordance with the Protocol, but governmental corruption in Korea is of remote origin and to reform it in a day is no easy task. Of course to revise laws and thus effect superficial reforms is a matter presenting no difficulty, but such, I believe, is not by any means the way to achieve the object of administrative reform. What I hope with regard to this subject of Korean administrative reform is to give the matter the fullest thought and to accomplish it gradually so that the people of Korea shall be made simultaneously to reap its blessings.

"The poverty of the Koreans is a matter of universal knowledge, and if it be neglected and no means devised for relieving it, this empire will not only be violating its responsibility as protector of Korea, but will also itself have to suffer in the end.

"The Japanese Government has taken upon itself the burden of Korea's national defences and has accepted the duty of posting a certain force of troops in Korea. Looking at the expense of this alone, it is seen to be not inconsiderable. Further it would be by no means a wise arrangement that she should shoulder Korea's various expenditures which are destined to grow hereafter larger and larger and that they should be imposed on our people. Therefore it is essential that we should make the Koreans gradually increase their financial strength and should devise means for getting the people of Korea themselves to bear as far as possible the expenses of all Korean undertakings. With regard to contriving an increase of their financial strength the first thing to be considered is agricultural improvements. But in the demains of engineering and forestry also there are not a few matter calling for reform and organization *pari passú* with agriculture. I hope to investigate all these matters fully and to carry them out gradually.

"The population of our country shows a very rapid rate of increase, and it is natural that tis increment should over-flow into Korea. Above all when the various enterprises in that country reach a stage of development it is quite evident that we shall witness a very great addition to the number of our people going there, as compared with to-day. But there has been much to censure in the conduct of our nationals hitherto in Korea. The greatest indignities have been put upon the Koreans and they have been obliged to suffer them with tears in their eyes. It is true that persons guilty of such conduct constitute only a small part of the Japanese residing in Korea, but now that this Empire has taken upon itself the protectorate of Korea this improper behvious calls for the utmost correction; especially inasmuch as, since the beginning of the *Meiji*, era many difficulties have been eliminated from the relations of the two countries and two great wars have taken place the practical results of which are now for the first time displaying themselves. Yet because the conduct of our nationals towards the Koreans is not what it ought to be, they (the Koreans) pose abroad as sufferers and entertain the keenest dislike for us at home, with the very regrettable result that much injury is done to the relations of the two countries. I am persuceded that when our nationals go to Korea hereafter in increasing number, earnest steps must be taken to check this impropriety. It is needless to say that after I have assumed my duties, such of my nationals as are engaged in legitimate enterprises in Korea will be protected, but I propose to take ample measures for dealing with all *mauvais sujets*.

"What I have now said conveys only the gist of the hopes I entertain. In realizing them there must of course be order and method, but I am resolved to follow on the whole the policy I have here indicated. At some of you, Gentlemen, must be well versed in Korean affairs, I trust that you will have no hesitation in expressing your views with regard to my intentions. I shall be most pleased to hear them, and if there be any reason to modify my policy I will not hesitate to do so."

The Japan Times.

TOKYO, SATURDAY, FEB. 3RD, 1906.

THE JAPANESE PRESS.

Marquis Ito's speech.

Marquis Ito's recent speech, on the line of policy he intends to adopt as Resident-General in Korea, is receiving hearty endorsement from the Tokyo press. His speech, as reported in our columns, dealt with the necessity of negotiating with the foreign Governments, on the one hand, and on the other with the Korean Government, to smooth the way for full discharge of Japan's duties as protecting power, since the Peninsular Empire's diplomatic affairs are now entirely entrusted to this country. In his discussion of administrative problems, the Marquis pointed out very sensibly that it is a comparatively easy matter to reform the laws, but it may be immeasurably difficult to secure the real confidence of the Koreans. How to proceed in the matter is still a knotty problem, in Marquis Ito's mind. The most important work is to elevate the low financial and economic status of that country; and this can only be done by developing the National resources, to the mutual benefit of Korea and Japan, since this Empire has taken upon itself the burden of the defence of the country, and has invested money heavily in improving her means of communication, and other civilizing factors. To realize this end, the Resident-General will encourage, foremost among all other things, agriculture. There is room for great undertakings in engineering, forestry and other material improvements of the country; these should be taken in hand in the order of their importance. And Marquis Ito's speech concluded with an assurance that the Koreans would be protected against arrogant or overbearing conduct of the "superior race," now such a frequent cause of complaint against the Japanese residents. Thus recapitulating the chief points of the speech, the *Nichi Nichi* compares this policy with that of the American Government in dealing with the Philippines; and the paper concludes that the enlightened policy outlined by Marquis Ito compares well with the most advanced colonial policy now practised in the world. The *Nichi Nichi* is confident that the public will join in its appreciation of the Marquis' great service to the country.

The *Asahi* says that it feels now free from all anxiety about our relations with Korea, since the appointment of Marquis Ito as Resident-General. It expresses appreciation of the candid manner in which he invited the press representatives to offer suggestions in regard to our Korean policy. In response, then, to his invitation, the paper wishes to draw his attention to two points. First, it is true, as Marquis Ito says, that there is urgent need to provide a remedy for the grievance of the Koreans as to the overbearing, not to say tyrannical conduct of Japanese residents in the peninsula. The Marquis has duly recognised this need; but the *Asahi* says that there is another evil—the unpleasant and often underhand ways prevalent among the Japanese residents themselves. This also should receive His Excellency's close attention. There is need to study the causes, deep-rooted as the paper believes them to be, and a way should be devised for reforming the low social tone of the Japanese settlers over there, by some means other than administrative. The paper prays for good government for the Japanese as well as the Koreans. It would place special emphasis upon the importance of giving fair and respectable treatment to the self-governing bodies in the settlements; for they have been the most important factor in developing and maintaining Japanese predominance in Korea.

The *Mainichi* regards the Marquis' speech before the press representatives as a public declaration of his policy to both Koreans and Japanese, and thinks his pledges should be kept in mind as a check on the future conduct of his government in Korea. It has been the consistent practice of the *Mainichi*, in discussing our Korean policy, to ignore the existence of the incurably corrupt official world of Korea, and to advocate trying to win the hearts of the people themselves. But this opinion, it says, has been ridiculed as too unpractical, and requiring too long a time; and the contrary principle—that of obtaining the acquiescence of the people by gentle but firm pressure of real force—has been accepted and used as a working principle of practical politics, by our Government, and by our diplomatic and Consular representatives in Korea. The *Mainichi* therefore rejoices to see its own more liberal views practically embodied in Marquis Ito's declaration. It appreciates the caution shown by the Resident-General, in seeking to disarm criticism on one point; he sees that for

"JAPAN TIMES", February 3, 1906.

sake of promoting confidence and good-will among the Koreans, by really serving their welfare and the principles of fairplay, it may be necessary to deal summarily with certain "undesirables" among the Japanese residents; it may be even necessary to go so far as to deport them from Korea, and naturally in such cases there would result a crop of evil reports spread by these persons on returning to Japan—malicious slanders, most likely, which Marquis Ito wishes now to discount abundantly. The *Mainichi* praises his foresight, circumspection and courage. But our contemporary warns Marquis Ito not to be over-confident of succeeding with the Koreans, for Count Inouye went to Korea with just as high ideals and just as promising plans, but hardly a year passed before he was driven to utter despair at the hopeless and incorrigible worthlessness of most of the Koreans; and thus his mission proved a failure. If Marquis Ito now goes earnestly resolved to make this mission a glorious climax to his long and useful career, the *Mainichi* will give him unstinted support. Finally, this frank appeal to the Press is an excellent sign: it is the only such instance in Marquis Ito's life, not to mention any other statesman, gifted with less ability, acumen, and enlightenment than he, says our contemporary; and it is an admirable example for the rising generation of would-be Constitutional statesmen.

Marquis Ito's public expression of his political views before the press representatives draws praise from the *Jiumin*. It endorses the Marquis' policy, which aims at the regeneration of Korea on the "slow but sure" basis. As to his economic policy, the paper supports it entirely; for it is of paramount necessity in Korea to raise the intelligence and character of the people, through modern education and development of industrial activities.

4

ENCLOSURE NO.4 WITH MR. HUNTINGTON WILSON'S NO.389 OF FEBRUARY 13,1906

The Japan Daily Mail.

YOKOHAMA. THURSDAY. FEBRUARY 8, 1906.

MARQUIS ITO'S SPEECH.

The speech made by Marquis Ito on the 5th instant to the parliamentary members of the *Seiyu-kai* was as follows:—

"I am extremely gratified that you, gentlemen of the *Seiyu-kai*, remembering my old relations with you, have enabled me to meet you at this farewell party on the eve of my departure for Korea. It is still to me a source of great satisfaction to recall how you gentlemen formerly shared my political opinions, and how when, in spite of my very humble attainments and small abilities I acted as your leader in my capacity of President, you made every allowance for my incompetence and deferred to my views. I am also profoundly pleased that in conjunction with Marquis Saionji you are to apply yourselves to the post-bellum enterprises. My intercourse during many years with Marquis Saionji has been a source of gratitude to me. I have learned not a little from him, and being entirely at one with his poli ical opinions, I am persuaded that with him assuming an important position as to the post-bellum enterprises and you, gentlemen, standing by his side and sharing his responsibility in great affairs of State, not only will the advantages of the people be furthered but also the security of the realm will owe much to your exertions. Concerning present day problems of the legislature, you are making them, I am persuaded, an object of the fullest study, and therefore there does not appear to be any need to refer to them here. But inasmuch as any error with respect to the *post-bellum* undertakings would not only sacrifice the good results of the war but also involve the State's future in peril, I earnestly hope that your attitude will be one of extreme circumspection.

I turn now to the Korean problem, which for the past thirty or forty years, has well nigh shaken the Far Eastern firmament. Japan's special geographica and political relations with the peninsula affected her relations with the Powers also and plunged her into two wars which cost her heavily. To-day at length we have succeeded in obtaining a formal solution of the problem but to solve it in practice still belongs to the future. This is the result of the sacrifices that Japan has made of life and treasure, and since, as I believe, it is a matter of serious import to the safety and independence of the Empire, I go to assume office in Korea with much trepidation and with full consciousness of my own inability. Nevertheless though I can not certainly count on attainment, seeing that in all things failure is more frequent than success I am resolved to labour to the utmost of my ability.

"From Japan's point of view we certainly have had a most painful experience with regard to Korea, yet from Korea's point of view she doubtless believes that she too has been subjected to great pressure and she certainly does not submit to us willingly. That she feels reluctant is because, when there is question of forfeiting independence, it is much the same by what country one is deprived of it. Hence if there be any to mislead her, she will at once break away from the Japanese bridle, and it follows that unless this country can win her sincere allegiance, we may again beget for ourselves all the old troubles. We must consequently make her understand that Japan's protection is not for the purpose of harming her independence; that if the Japanese extend protection to her it is because they are compelled to do so for the purpose of preserving their own independence, and that no injury of any kind is to be inflicted on her. Hence while I myself will approach the Korean problem with all sincerity of purpose, I shall not confine myself to words in dealing with the pitiable condition of the people, but whether in matters of administration or of finance will give them practical proofs of sympathy.

"Thus since, as I have explained, Korea does not feel at all easy about our protectorate, it is to be hoped that you, gentlemen, will take care not to give cause of offence to the Koreans, but that by seeking to inspire them with sentiments of community of interests, in other words, to show them that we are fellow-passengers on the same boat, you will remove their feelings of doubt and umbrage. This is not merely my thought. It is what our fellow-countrymen universally hope and what our Sovereign desires. I take office with the firm resolve to carry out His Majesty's purpose, and therefore I pray that you also, gentlemen, will sympathise and take care that the lives of tens of thousands of our countrymen shall not have been sacrificed in vain.

"It is not with regard to Korea alone but with regard to the whole problem of the Far East that nothing opposed to the sentiment of the Powers should be done. No strong country whatsoever can march forward independently and at its own arbitrary convenience. If Japan, puffed up by her victories in war, should forfeit the sympathy of the Powers, she will be laying up for herself misfortune in the future.

"A great political party may be said to represent the country, yet it can not be guaranteed against erring against the country's interests, and thus much more than common diligence must be brought to the discharge of political duties. Let not the State be sacrificed by seeking to please the people only. That is what I declare with all earnestness. I believe, further, that any change of the Government's present financial policy would be injurious to the State, and it has been a source of great comfort to me to learn that the attitude of the *Seiyu-kai* towards this matter is settled. I most strongly hope too, that you will go forward to the full realization of your aims.

"To-day's meeting is engraved upon my heart and will remain a perpetually agreeable memento which shall never fade from my mind."

The Assistant Secretary.

ASSISTANT SECRETARY,
March 7, 190
MAR 8 1906

Dear Mr. Adee

This will be good news to
Colbran, Bostwick and MacVeagh, if it be true

R. B. MAR -8 1905

Dear Mr Bacon

I think the margin Sto's speech, 2nd enclosure, might be given to the press. Then Mr. MacVeagh can read it.

aal

have [illegible]
to press & then put it
returned to me?

R. B.

Mr Smith:
Given to Press
March 10, 1906
Enclose No. 2.

The Assistant Secretary.

ASSISTANT SECRETARY.
March 7, 190
MAR 8 1906

Dear Mr. Denby:
Will you please
have 2 certified copies
to pass & this paper
returned to me?

F. B. S

Mr. Smith:
Given to Press
March 10, 1906
Enclose No. 2.

AMERICAN LEGATION,
TOKIO.

RECEIVED STATE
MAR 14 1906
DIPLOMATIC BUR. DEPT. OF

No.390. February 16, 1906.

INDEX BUREAU
REC'D
MAR 13 1906
DEPT. OF STATE

ASSISTANT SECRETARY,
MAR 13 1906

CHIEF CLERK
MAR 13
DEPARTMENT
OF STATE.

To Congress April 2 1906

To War Dept. Mch. 19

Thos again April 6

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Japanese decorations for American military officers.-
Designations of orders to be conferred.

Refer application
to Congress

INDEX BUREAU
APR 9 1906
FILED

AMERICAN LEGATION,
TOKIO.

No.390.

February 16, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to acknowledge the receipt of your instruction No.153 of December 30 last in reply to Mr. Griscom's despatch No. 321 of October 19, wherein you inform me that the War Department consents to application's being made to Congress for the acceptance of certain Japanese decorations by the officers attached to the Japanese armies in the field during the late war, and instruct me to ascertain from the Japanese Government the names of the orders to be severally conferred on these officers.

In reply I have the honor to enclose herewith copies of the note embodying the sense of the instruction, which I addressed to the Minister for Foreign Affairs immediately upon its receipt on January 31, and of Mr. Kato's answering note of yesterday with which he encloses a list specifying the designations of the orders which the Japanese Government wishes to confer respectively upon Major-General Mac Arthur and nine other officers, as well as Doctor Seaman, a former officer.

I

I would respectfully call attention to the inclusion in the Japanese Government's list of the names of two officers, Surgeon-Captain Charles Lynch and Lieutenant Fortescue, who are not mentioned in the extract from the letter of the Secretary of War which was enclosed with the instruction under acknowledgment.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

NCLOSURES: -Copies-

1. Mr. Huntington Wilson to Mr. Kato Takaaki, January 31, 1906.
2. Mr. Kato Takaaki to Mr. Huntington Wilson, February 15, 1906. -with sub-enclosure-

Inclosure No. 1 , with Mr. Wilson's No. 390 , February 16, 1906

Copy.

AMERICAN LEGATION.

TOKYO.

January 31, 1906.

Monsieur le Ministre:

In reply to the Note No. 62, which His Excellency the Baron Komura addressed to this legation on September 25 last, I have the honor to inform Your Excellency that my Government was promptly apprized of the gracious disposition of His Majesty the Emperor to confer certain Imperial orders upon the American military officers attached to His Majesty's forces in the field during the past two years.

The Secretary of State having now instructed me that consent is given for an application to the Congress permitting the acceptance of these high marks of distinction, I have the honor to ask Your Excellency, in further pursuance of my instructions

To His Excellency

Kato Takaaki,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

instructions, to be so kind as to communicate the designations of the orders to be severally conferred upon these officers, in order that the necessary request may at once be laid before the present Congress.

I take advantage of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Signed: Huntington Wilson.

Enclosure No. 2 ,with Mr. Wilson's No. 390, February 16, 1906.

Copy.

Translation.

No. 11.

Department of Foreign Affairs,
Tokyo, February 15, 1906.

S i r :

Referring to your note No. 211 of January 31, relative to the conferring of the Imperial Orders upon the United States Military Officers formerly attached to the Imperial Armies at the front, I beg to enclose herein a list in which you will find the specified designations of the orders to be respectively conferred upon Major-General MacArthur and ten other officers.

Accept, Sir, the renewed assurances of my high consideration.

Signed: Kato Takaaki,

Minister for Foreign Affairs.

Huntington Wilson, Esqre,
Charge d'Affaires
of the United States of America.

Sub-enclosure with Mr. Wilson's No. 390 , February 16, 1906.

Second Class of the Imperial Order of the Rising Sun
to Major-General Arthur MacArthur.

Third Class of the Imperial Order of the Rising Sun
to Colonel Enoch Crowder.

Third Class of the Imperial Order of the Sacred Treasure
to Lieut. Colonel Edward J. McClernand.

Fourth Class of the Imperial Order of the Rising Sun
to Surgeon-Major Louis L. Seaman (retired).

Fourth Class of the Imperial Order of the Rising Sun
to Engineer-Major J. E. Kuhn.

Fourth Class of the Imperial Order of the Sacred Treasure
to Captain J. F. Morrison.

Fourth Class of the Imperial Order of the Sacred Treasure
to Surgeon-Captain Charles Lynch.

Fourth Class of the Imperial Order of the Sacred Treasure
to Captain West.

Fourth Class of the Imperial Order of the Sacred Treasure
to Captain Pershing.

Fourth Class of the Imperial Order of the Sacred Treasure
to Captain Peyton C. March.

Fifth Class of the Imperial Order of the Rising Sun
to Lieutenant Fortescue.

AMERICAN LEGATION,
TOKIO.

CONFIDENTIAL.

No.391.

February 16, 1906.

RECEIVED MAR 14 1906 DIPLOMATIC BUR. DEPT. OF STATE.

ASSISTANT SECRETARY, MAR 13 1906

INDEX BUREAU REC'D. MAR 13 1906 DEPT. OF STATE

CHIEF CLERK MAR 13 1906 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Secret protocols of Japan-China Peking Treaty.

INDEX BUREAU MAR 21 1906 FILED

AMERICAN LEGATION.
TOKIO.

onfidential.

No. 391. February 16, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r:

I have the honor to confirm the Legation's cipher telegram of the 19th ultimo, reading as follows:

"January 19, 5 p.m. I have obtained the Japan-
"ese Government's consent to communicate to you in strict
"confidence the secret protocols of the Peking Treaty if
"you instruct me to ask them to do so .

"Wilson."

In the course of an interview with the Minister for Foreign Affairs on January 18th I asked him whether there was anything in the secret protocols which he would be willing to communicate to us in addition to the information concerning the Mukden-Hsinmintun and Changchun-Kirin railway lines which I had from Mr. Yamaza, Chief of the Political Bureau,- and which was contained in this legation's dispatch No. 370 of the 12th ultimo. Mr. Kato said that there was nothing in the protocols which they were not willing that the whole world should know, but that they were secret and were to remain so at the special request of the Chinese Government. His Excellency added that, in view of the friendship between our two countries, the importance of American interests in Manchuria, and the relations they

hoped

hoped to have with us there, the Japanese Government would be willing to communicate the protocols in strict confidence to my Government if I were instructed to ask them to do so. He said that perhaps they would communicate them also to Great Britain. I was very glad of the prospect of being able to send you the protocols and assured the Minister for Foreign Affairs that their communication to you by his Government would be appreciated. As a result of this conversation I had the honor to dispatch to you the telegram confirmed above.

On the 21st ultimo I received your telegraphic instruction, which I have now the honor to acknowledge, reading as follows:

"We would gladly receive in strict confidence and "be thankful for secret protocols Peking Treaty. (Period) "Make request.

"Root."

Acting upon this instruction I accordingly made the request, by means of a personal note, and transmitted to the Minister for Foreign Affairs a paraphrase of your telegram. When I saw Mr. Kato some days later I was informed, to my surprise, that he was going to give us only the parts of the protocols which were in the nature of agreements, instead of the full text of the protocols as he had led me to expect. He said these parts of the documents were being translated into English. I was unable to obtain a Japanese text of the actual provisions, which would have been preferable.

The Minister for Foreign Affairs has today sent me, as strictly confidential, what purports to be a summary in English of those portions of the Peking Protocols which possess the character of executory agreements between Japan and China, and I have the honor to forward herewith a copy

of

of the same.

It will be observed that the chief importance of the protocols lies in securing to Japan a joint interest with China in the Changchun-Kirin and Mukden-Hsinmintun railway lines and reinforcing her grip upon the railways of southern Manchuria. A mutual arrangement is also to be made for the working of the mines in the province of Feng Tien (Shing King) appertaining to the railway; and matters of common concern relating to the connecting railway services and to telegraph lines in this province and cables between Port Arthur and Yentai are to be adjusted by mutual consultation.

Section 4 of the enclosure looks to insistance by China upon Russia's faithful observance of her railway agreements regarding northern Manchuria. Section 8 is noticeable in that it appears to give the Japanese Minister at Peking a voice as to the regulations for the opening under the Peking Agreement of the sixteen towns in Manchuria. Section 10 contains the engagement of the Chinese Government to guarantee peace, maintain order, and protect foreigners in Manchuria, upon the evacuation of that region by the Japanese and Russian troops.

The remaining paragraphs deal with various other details of the Chinese-Japanese relations growing out of the war, but seem to add little of importance to the information already in the Department's hands.

Assuming the enclosed summary to contain all the important points in the protocols, there is a reason why the Japanese Government should themselves be anxious for the secrecy of the contents at this time in the fact that both the Diet and the people are inclined to believe the advantages gained at Peking to be still greater than they actually are.

I have the honor to be,
Sir,
Your obedient servant,

Hunter Wilson.

LOSURE:-Summary of protocols.

ENCLOSURE NO.— WITH MR. WILSON'S NO.391 OF FEBRUARY 16, 1906.

COPY.

Strictly confidential.

Whereas the protocols of the Conference recently held between the Plenipotentiaries of Japan and China with regard to Manchuria are to be kept strictly secret in deference to the desire of the Chinese Government, only such portions of those Protocols as possess the character of executory agreements are given in the following summary:

1. The railway between Changchun and Kirin will be constructed by China with capital to be raised by herself. She, however, agrees to borrow from Japan the insufficient amount of capital, which amount being about one-half of the total sum required. The contract concerning the loan shall, in due time, be concluded, following, mutatis mutandis, the loan contract entered into between the board of the Imperial Railways of North China and the Anglo-Chinese Syndicate. The term of the loan shall be twenty five years, redeemable in yearly installments.

2. The military railway constructed by Japan between Mukden and Hsin-min-tun shall be sold to China at a price to be fairly determined in consultation by Commissioners appointed for the purpose by the two Governments. China engages to reconstruct the line, making it her own railway, and to borrow from a Japanese corporation or corporations one half of the capital required

for

for the portion of the line east of Liao-ho for a term of eighteen years repayable in yearly installments, and a contract shall be concluded, for the purpose following, mutatis mutandis, the the loan contract entered into between the Board of the Imperial Railways of North China and the Anglo-Chinese Syndicate.

All the other military railways in different localities shall be removed with the evacuation of the regions.

3. The Chinese Government engage, for the purpose of protecting the interest of the South Manchurian Railway, not to construct, prior to the recovery by them of the said railway, any main line in the neighbourhood of and parallel to that railway, or any branch line which might be prejudicial to the interest of the above-mentioned railway.

4. China declares that she will adopt sufficient measures for securing Russia's faithful observance of the Russo-Chinese treaties with regard to the railways which Russia continues to possess in the northern part of Manchuria, and that it is her intention, in case Russia acts in contravention of such treaty stipulations, to approach her strongly with a view to have such action fully rectified.

5. When in the future, negotiations are to be opened between Japan and Russia for regulation of the connecting railway services (Article VIII of the Treaty of Peace between Japan and Russia), Japan shall give China previous notice. China

shall

shall communicate to Russia her desire to take part in the negotiations through commissioners to be despatched by her on the occasion, and Russia consenting shall participate in such negotiations.

6. With regard to the mines in the Province of Feng-tien, appertaining to the railway, whether already worked or not, fair and detailed arrangements shall be agreed upon for mutual observance.

7. The affairs relating to the connecting services as well as those of common concern in respect of the telegraph lines in the Province of Feng-tien and the cables between Port Arthur and Yen-tai shall be arranged from time to time as necessity may arise in consultation between the two countries.

8. The regulations respecting the places to be opened in Manchuria, shall be made by China herself, but the Japanese Minister at Peking must be previously consulted regarding the matter.

9. If no objection be offered on the part of Russia respecting to the navigation of the Sungari (by Japanese vessels), China shall consent to such navigation after negotiations.

10. The Chinese Plenipotentiaries declare that immediately after the withdrawal of the Japanese and Russian troops from Manchuria, China will proceed to take, in virtue of her sovereign right, full administrative measures to guarantee peace in that region and endeavour, by the same right, to promote good and remove evil as well as steadily to restore order, so that the residents of that region, natives and foreigners, may equally enjoy

the

the security of life and occupation under the perfect protection of the Chinese Government. As to the means of restoring order, the Chinese Government are to take by themselves all adequate measures.

11. While relations of intimate friendship subsisted as at the present time between China and Japan, Japan and Russia had unfortunately engaged in war and fought in the territory of China. But peace has now been reestablished and hostilities in Manchuria have ceased. And while it is undeniable that Japanese troops, before their withdrawal, have the power of exercising the rights accruing from military occupation, the Chinese Government declare that certain Japanese subjects in Manchuria have recently been observed to sometimes interfere with the local Chinese administration and to inflict damage to public and private property of China.

The Japanese Plenipotentiaries, considering that, should such interference and infliction of damage have been carried beyond military necessity, they are not proper acts, declare that they will communicate the purport of the above declaration of the Chinese Government to the Government of Japan, so that proper steps may be taken for controlling Japanese subjects in the Province of Fengtien and to promote the friendly relations between the two nations, and also for preventing them in future, from interfering with the Chinese administration or inflicting damage to public or private property without military necessity.

12.

12. In regard to any public or private property of China which may have been purposely destroyed or used by Japanese subjects without any military necessity, the Governments of the two countries shall respectively make investigations and cause fair reparation to be made.

13. When the Chinese local authorities intend to despatch troops for the purpose of subduing native bandits in the regions not yet completely evacuated by Japanese troops, they shall not fail to previously consult with the Commander of the Japanese troops stationed in those regions so that all misunderstanding may be avoided.

14. The Japanese Plenipotentiaries declare that the Railway Guards stationed between Changchun and the boundary line of the leased territory of Port Arthur and Talien, shall not be allowed, before their withdrawal, to unreasonably interfere with the local administration of China or to proceed without permission beyond the limits of the railway.

15. Chinese local authorities, who are to reside at Inkou, shall be allowed, even before the withdrawal of the Japanese troops, to proceed to that place and transact their official business. The date of their departure is to be determined, as soon as possible after the definitive conclusion of this Treaty, by the Japanese Minister to China in consultation with the Waiwupu. As there is still in that place a considerable number of Japanese troops, quarantine regulations as well as regulations for the prevention of, contagious diseases,

shall

shall be established by the authorities of the two countries in consultation with each other so that epidemics may be avoided.

16. The revenue of the Maritime Customs at Ingkou shall be deposited with the Yokohama Specie Bank and delivered to the Chinese local authorities at the time of evacuation. As to the revenue of the native Customs at that place and the taxes and imposts at all other places, which are all to be appropriated for local expenditures, a statement of receipts and expenditures shall be delivered to the Chinese local authorities at the time of evacuation.

Japan

TELEGRAM RECEIVED IN CIPHER.

RECEIVED FEB 20 1906 DEPARTMENT OF STATE.

INDEX BUREAU FEB 21 1906 DEPARTMENT OF STATE.

CHIEF CLERK FEB 20 1906 DEPARTMENT OF STATE.

From

U. HU. RA. 12- 11:20 p.m.

New-York, February 19, 1906.

State Department,

Washington, D. C.

Please forward mail 115 East 72nd St., New-York.

Lloyd C. Griscom.

M. Smith
M. Scott

File

INDEX BUREAU FEB 28 1906 FILED

Entered by the Chief Clerk's Office,

AMERICAN LEGATION,
TOKIO.

.392. February 19, 1906.

ASSISTANT SECRETARY,
MAR 13 1906

CHIEF CLERK
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1906
DEPARTMENT
OF STATE.

RECEIVED
MAR
1906
DIPLOMATIC BUR. DEPT. OF STATE.

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MAR 20 1906
FILED

Mr. Huntington Wilson to Mr. Root,

SUBJECT: Financial legislation and taxation in Japan.

AMERICAN LEGATION,
TOKIO.

No. 392. February 19, 1906.

To the Honorable Elihu Root,

Secretary of State,

Washington.

S i r :

Referring to my despatch No. 350, of December 7, 1905, I have the honor to report that the provisions for the amortization of the national debts, as proposed by the Japanese Cabinet, have been approved by the Diet.

It appears from the budget that in the year 1907, by which time all instalments of monies borrowed abroad will have been paid in, the debts arising out of the late war will amount to Yen 1,822,796,700, equal to $911,398,350. For the reduction of this amount there is to be appropriated annually Yen 110,000,000, ($55,000,000,) so that its discharge may be effected by the year 1939. In the course of this transaction six operations of conversion or special redemption will take place in addition to the operation which is to be effected during the current year, namely, the conversion of the foreign six per cent. loans into four per cent. and the conversion of the domestic six per cents into five per cents. The years for these conversions or special redemptions will be 1908, 1910, 1911, 1924, 1925, and 1930, and the several sums involved are, in round numbers, Yen 52,000,000,($26,000,000,) Yen 49,000,000, ($24,500,000,) Yen57,000,000, ($28,500,000,) Yen 207,000,000,

($103,500,000,)

($103,500,000,) Yen 279,000,000, ($139,500,000,) and Yen 224,000,000, ($112,000,000.)

The additional domestic debt, which is not connected with the war, is at present Yen 575,468,221, ($287,734,110.) It is proposed to discharge this portion by the year 1942 in instalments of about Yen 40,-000,000, ($20,000,000,) annually until 1923 and smaller amounts thereafter.

It therefore results that Japan's total national debt amounts to Yen 2,398,264,921, ($1,199,132,460,) to be reduced to Yen 16,834,350, ($8,417,175,) by 1940 and entirely extinguished by the end of 1942.

The Diet has indefinitely continued the war taxes, upon the condition, however, that within the next two years the whole subject of taxation shall be investigated with a view to improvement. There is now a great multiplicity of taxes in this country, among which may be mentioned land tax, house tax, income tax, business tax, succession duties, liquors tax, sugar comsumption tax, textiles consumption tax, soy tax, travelling tax, registration and stamp taxes, bourses tax, mining tax, patent medicine tax, shooting licence tax, playing cards tax, servant tax, vehicle tax, business and trade licences, tobacco monopoly, salt monopoly, camphor monopoly, and opium monopoly.

A number of these taxes would seem to involve an amount of expense in collection and of inconvenience quite out of proportion to the revenue accruing from them. It is well known that the income tax is enforced with such laxity that the state fails to derive anything like the amount due from this source. With the last mentioned exception the financial resources of the Japanese people seem now to be taxed very heavily, and it appears that until their industries and commerce shall

have

have considerably expanded any material augmentation of the Government's revenues will be difficult.

Ihave the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

No. 393. February 20, 1906.

INDEX BUREAU REC'D. MAR 23 1906 DEPT. OF STATE

ASSISTANT SECRETARY, MAR 23 1906

CHIEF CLERK MAR 23 1906 DEPARTMENT OF STATE

Mr. Huntington Wilson to Mr. Root.

To Mr. Campbell
Sent
Answered
Mr. Campbell
Mr. Root
Filed

SUBJECT: Mr. H. B. Campbell's property at Port Arthur.

INDEX BUREAU MAR 23 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 393. February 20, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington, D. C.

S i r :

I have the honor to acknowledge the receipt of your instruction No. 155 (158) of the 16th ultimo in regard to the method in which Mr. H. B. Campbell is to regain possession of the tubes and fittings of his which were reported as found at Port Arthur, and also looking to further search for the portion of his property understood to have been left in the Port Arthur warehouses of Messrs. Clarkson and Company.

In both these cases, according to the forms prescribed by the Japanese authorities, as set forth in enclosures Nos. 1 and 2 with the Legation's dispatch No. 384 of the 1st instant, Mr. Campbell should by power of attorney appoint an agent to act for him in the matter of his Port Arthur properties; and the agent thus created should apply through this legation for permission to visit Port Arthur to investigate and take possession of Mr. Campbell's property. Such applications must be accompanied by detailed lists of the property to be investigated, but since the list with Mr. Campbell's

letter

letter to the Department dated July 29, 1905, which reached the Legation as an enclosure with your instruction No. 137 of August 14, is already in the hands of the Japanese authorities, if that list is complete, no fresh one will be required by the Ministry for War.

Mr. Christian Nielsen, who has gone to Port Arthur as the representative of Clarkson and Company, might be able to give Mr. Campbell some information as to the portion of his goods left in the warehouses of that company. Meanwhile, in making his arrangement, Mr. Campbell should bear in mind that Section IV of the Regulations issued by the Governor-General of the Kwantung on the 21st ultimo says:

"IV. Those private properties which are "left in those places without any trustees appointed "and are in custody of the military authorities shall "be returned to the owners on application by the own- "ers or their representatives for the recovery of "their properties, only when such application is "made within eight months from the date of the pro- "mulgation of these regulations."

I have the honor to be,

Sir,

Your obedient servant,

Henry Wilson.

AMERICAN LEGATION,
TOKIO.

MAR 27 1906
DIPLOMATIC BUR. DEPT. OF ST.

No. 394. February 21, 1906.

INDEX BUREAU
REC'D.
MAR 23 1906
DEPT OF STATE

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Japanese Famine Relief Fund.

Mr. Morrow says not Mr. Bacon directs to be communicated to any one. Merely ack. by cable.

INDEX BUREAU
MAR 30 1906
FILED

AMERICAN LEGATION,
TOKIO.

No. 394.

February 21, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to acknowledge the receipt of your enciphered telegram received on the 16 instant reading as follows:

"Draw on Secretary of State ten "thousand dollars and pay proceeds to Minis- "ter for Foreign Affairs as having been col- "lected by Red Cross through Christian Herald "for Japanese famine relief. It is especial- "ly hoped it may be expended for food.

"Root,".

Three of the cipher groups, including that giving the amount donated, were confused in transmission, the necessary correction giving rise to a day's delay, so that it was on the seventeenth that I transmitted to the Minister for Foreign Affairs a cheque for Yen 20,050.13, being the proceeds at the current rate of 49 7/8, of my draft on you of that date.

I have the honor to transmit herewith enclosed, copies of my informal note to the Minister for Foreign Affairs carrying out the instruction,

tion, and of Mr. Kato's reply of the 19 instant wherein he states that he will at once forward the donation to the President of the Japanese Red Cross Society to be expended for food for the famine sufferers in the north.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

ENCLOSURES: -Copies-

1. Mr. Huntington Wilson to Mr. Kato, February 17, 1906.
2. Mr. Kato to Mr. Huntington Wilson, February 19, 1906.

Enclosure No. 1, with Mr. Wilson's No. 394 , February 21, 1906.

COPY.

February 17, 1906.

My dear Mr. Kato:

The Secretary of State has instructed me to pay to Your Excellency $ 10,000 for the famine relief. This sum, which it is especially hoped will be expended for food, is from the American Red Cross, who collected it through the Christian Herald. I therefore beg leave to enclose the amount in the form of a cheque for yen 20,080.15, requesting Your Excellency kindly to act as the means of transmission.

Yours sincerely,

Signed: Huntington Wilson.

His Excellency

Takaaki Kato,

Minister for Foreign Affairs,

&c., &c., &c.

closure No. 2, with Mr. Wilson's No. 394, February 21, 1906.

COPY.

February 19, 1906.

My dear Mr. Wilson:

I beg to acknowledge the receipt of your note of the 17th instant enclosing a cheque of ¥ 20,080.15 ($ 10,000.00), which was collected by the American Red Cross through the Christian Herald for the famine relief. I shall have great pleasure in transmitting the same to the President of our Red Cross Society at once for the use indicated in your note.

Yours sincerely,

Signed: Kato Takaaki.

AMERICAN LEGATION,
TOKIO.

No.395. February 23, 1906.

RECEIVED MAR 23 1906 DIVISION OF DEPT. OF STATE.

ASSISTANT SECRETARY. MAR 23 1906

INDEX BUREAU REC'D. MAR 23 1906 DEPT. OF STATE

CHIEF CLERK MAR 23 1906 DEPARTMENT OF STATE.

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Prince Arthur of Connaught's visit to the Legation on Washington's Birthday.

INDEX BUREAU MAR 23 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 395. February 23, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington, D. C.

S i r :

I have the honor to report, as a graceful courtesy done the United States, that on the occasion of a reception at the Legation on Washington's Birthday, to which were invited the American residents of Tokio and Yokohama and many Japanese who had studied or resided in America, H. R. H. Prince Arthur of Connaught called formally to give his congratulations upon the day. The Prince was accompanied by his suite, the British Ambassador, and a number of Japanese officials and officers, including Admiral Togo and General Kuroki.

The reception the Japanese Government and people have given Prince Arthur, who has been in Tokio as the representative of his Sovereign to invest the Emperor of Japan with the Order of the Garter, has been characterized by the splendid demonstrations of welcome and the magnificent entertainments in which the Japanese excel, and has of course been the occasion for many allusions to the friendship between the allied nations.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

AMERICAN LEGATION,
TOKIO.

RECEIVED. MAR 24 1906 BUR. ACCOUNTS DEPT. OF STATE.

No.396.

February 26, 1906.

Tokio Dispatch No. 30

INDEX BUREAU REC'D. MAR 23 1906 DEPT OF STATE

MR. HUNTINGTON WILSON TO MR ROOT.

SUBJECT: Second contribution, of ten thousand dollars, from American Red Cross Association, for famine relief.
--Confirming receipt of telegram.--

Mr. Peirce say, not to Mr. Bacon directs not to acknowledge receipt of communication to any one. Merely ack. by subject.

INDEX BUREAU FILED MAR 30 1906

AMERICAN LEGATION,
TOKIO.

No.396.

February 26, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

I have the honor to acknowledge the receipt of your enciphered telegram received on the 23 instant reading as follows:

"Ten thousand dollars additional
"Red Cross relief mailed to State Department
"by Christian Herald for cable transmission.
"Draw on Secretary of State and pay as be-
"fore for Japanese Red Cross for the pur-
"chase of food supplies exclusively.
"Root."

On the same day I transmitted to the Minister for Foreign Affairs a cheque for Yen 20,050.13, being the proceeds at the ruling rateof 49 7/8, of my draft of that date. I have received an acknowledgment from Mr. Kato in which he states that these funds will be at once forwarded to the Japanese Red Cross Association for the use prescribed in your telegram.

Like your telegram received on the 16 instant conveying the first Red Cross contribution,

tribution, this message also arrived in a badly confused condition.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

RECEIVED MAR 1906 DIPLOMATIC BUREAU DEPT OF STATE MAR 1906 2ND ASST SECRETARY

AMERICAN LEGATION,
TOKIO.

DIPLOMATIC BUREAU.
Substance to Exp'n Co.
Governors.
ACK. AND FILE.

No.397. February 28, 1906.

INDEX BUREAU RECD. MAR 23 1906 DEPT OF STATE
ASSISTANT SECRETARY. MAR 23 1906
CHIEF CLERK MAR 23 DEPARTMENT OF STATE.

Jamestown Exp. Co.
Mch. 27
File

MR. HUNTINGTON WILSON TO MR. ROOT.

SUBJECT: Wish of the Board of Governors of the Jamestown Exposition Company to have Admiral Togo and Field-Marshal the Marquis Oyama attend the Exposition.

INDEX BUREAU MAR 29 1906 FILED

AMERICAN LEGATION,
TOKIO.

No. 397. February 28, 1906.

To the Honorable Elihu Root,
Secretary of State,
Washington, D. C.

S i r :

I have the honor to acknowledge the receipt of the Department's instruction No. 156 of the 10th ultimo, enclosing copy of a letter and a resolution of the Board of Governors of the Jamestown Exposition Company, expressing their desire that Japan take part in the military and naval representation at the Exposition, and particularly that Field-Marshal the Marquis Oyama and Admiral Togo visit the Exposition at any time between May and November, 1907.

In obedience to the Department's instructions, I have today informally brought the wishes of the Exposition authorities to the attention of the Japanese Government, in the course of an interview with the Vice-Minister for Foreign Affairs, to whom I have also mentioned the matter in a personal letter, making clear, however, that, while such a detail would be highly appreciated by all concerned, our Government must not be regarded as requesting the designation of particular officers by the Government of Japan.

I shall take occasion to mention the matter in a similar informal manner to the Ministers

for

for War and for the Navy; but the date of the Exposition is still so distant that it may not be possible to learn at this time whether the Japanese Government would be disposed to meet the wishes of the Board of Governors of the Exposition by sending the two distinguished officers to Jamestown.

I have the honor to be,

Sir,

Your obedient servant,

Huntington Wilson.

51456
2908 O.L.

United States Consulate,
Nagasaki, Japan,
September 10, 1894

To. Ohmori Esq.
Governor of Nagasaki Ken,
Kencho.

Sir:

I have the honor to transmit herewith a copy of title deeds for Lot 40 a and 41 Sagarimatsu and Shipping place A formerly leased by Geo. W. Lake and now declared by me null and void and so entered upon the transfer Book

The originals are I presume in the possession of Geo. W. Lake and can not be obtained by me.

I am, Sir,
Your obedient servant,
W. H. Abercrombie
U. S. Consul

DLC.

CONSULAR BUREAU
DEC
23
1905
DEPARTMENT OF STATE

AMERICAN LEGATION,
TOKIO.

No. 344. November 24, 1905.

INDEX BUREAU
REC'D
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23
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DEC
23
1905
DEPARTMENT
OF STATE.

Mr. Huntington Wilson to Mr. Root.

SUBJECT: Claim of Frederick B. Lake.

Transmits copy and translations of Court records.

AMERICAN LEGATION,
TOKIO.

No. 344. November 24, 1905.

To the Honorable Elihu Root,
Secretary of State,
Washington.

S i r :

Referring to the Department's Instruction No. 83, of November 4, 1904, I have the honor to transmit herewith a copy, in the Japanese language, of the records of proceedings in the Nagasaki District and Appeal Courts, together with translations thereof and of the petition and judgment on appeal in the Supreme Court of Japan, in the case of Frederick B. Lake against the Governor of Nagasaki Ken.

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The papers in the Japanese language were furnished by Mr. Harris, American Consul at Nagasaki. The translations into English were made here under the supervision of Mr. Miller, Interpreter of this Legation, and revised with the assistance of Mr. Scidmore.

I have the honor to be,
Sir,
Your obedient servant,
Huntington Wilson.

ENCLOSURES:

1. Copy, in Japanese, of Nagasaki Court records.
2. Translations of the same.
3. Translations of Petition and Judgment in Supreme Court of Japan.

American Legation, Tokio, Japan — Enclosure No. 2, with Mr. Wilson's No. 344, of November 24, 1905.

The civil case Department in the Nagasaki District Court.

Number of the record.	No. 67. (wa) 33rd year of Meiji. (1900)
Name of the case.	The matter of the claim for the acknowledgement of a perpetual lease and the delivery of the land.
The persons taking charge of the case.	Judge; Itanaga, Clerk; Yoshida.
Result.	Judgement rendered on June 26th, 33rd year of Meiji. (1900)
Plaintiff.	Frederick B. Lake a citizen of U. S. A.
Attorney.	Honda Tsuneyuki. Maruoka Takiji.
Defendant.	Hattori Katsuzo.
Attorney.	Yamaguchi Naomichi; the legal representative of Mr. Hattori.

The date of the sittings of Court.

	Notice.
9, a. m. May 5th, 33rd year of Meiji. (1900)	not finished.
11, a. m. May 29th, 33rd year of Meiji.(1900)	not finished.
1, p. m. June 21st, 33rd year of Meiji.(1900)	

The list of documents.

	Page.	Notice.
The written judgement.	1	
The document of pleading.	5	
Declaration.		
Power of attorney.	20	
Pleas relating to the claim for the acknowledgement of a perpetual lease and the delivery of the land.		23
Application for denying the plaintiff's right of action.	25	
Documents presented as evidence.	27	
Copies of the original English.	29	
Copies of the documents presented as evidence.	30	
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Documents ~~of inspecting the lot of~~ relating to Lake's property	41	
The deeds of lease.	53	
Application for examining the evidence.	57	
Application for serving copy of the written judgement.		59
The service of the copy of the written judgement; the service of the declaration, the service of the writ of summons.		60 - 70

Judgement rendered on May 26th, 33rd year of Meiji(1900). Received the original written judgement on May 30th of the same year.

No. 67. (wa) 33rd year (1900)

The judgement.

Plaintiff. Frederick B. Lake.
A citizen of U. S. A.
No. 40 (B) Kudarimatsu, Oura,
Nagasaki, Nagasaki Ken.

Defendant. Nagasaki Ken.
Legal representative of
Yamaguchi Nawomichi, a
Nagasaki Kenzoku (An officer with
the Hannin rank)

Relating to the matter of the claim for the acknowledgement of a perpetual lease and the delivery of the land between the above parties, this district court decides as follows:-

The main clause.

The claim of the plaintiff is rejected. The cost of the suit shall be paid by the plaintiff.

The facts.

The main idea of the plaintiff's statement is as follows:
In 1866 and 1888, George W. Lake, the predecessor of the plaintiff, acquired a perpetual lease from the defendant of the lot of land amounting to 765 tsubo, known as the Ship-building and Milling lot B Kozonemachi, Nagasaki, Nagasaki Ken, of which he afterwards held undisputed possession . In the 27th year of Meiji (1894), the defendant refused to receive the land rent which Edward Lake brought to pay on behalf of his predecessor, deprived him of theland and returned it to the former owner; therefore it is claimed that the defendant shall pay to the plaintiff Yen 22000 (twenty two thousand yen)as the value of the perpetual lease.

The main idea of the plea of the defendant is as follows:
The defendant gave to the predecessor of the plaintiff a perpetual lease on the lot amounting to 765 tsubo, known as the shipbuilding and milling lot B Kozonemachi, according to the regulations

and milling lot B Kozonemachi, according to the regulations relating to the foreign settlement and stipulated that the rent must be paid in advance or otherwise the perpetual lease should become void.

On the 14th of April of the 27th year of Meiji (1894), the predecessor of the plaintiff had been prohibited from living in Japan according to Article 7 of the ~~agreement~~ Treaty between Japan and the United States of America and although the said predecessor of the plaintiff left for his native country, he did not appoint any manager for the lot and did not even pay the land rent for the period between the 1st of April of the 27th year of Meiji and the 31st of March of the following year; thereupon the defendant had communicated the above fact to the Consul of the United States of America who declared that the title deed was null and void.

Therefore the defendant took back the lot of land in question and returned it to the owner. Thus the plaintiff has no ground for his claim.

The two parties are not at issue as to the following points, viz. the fact that the predecessor of the plaintiff had acquired the lease as shown by Exhibit No. 4, B according to the regulations relating to the lease of land in the foreign settlement; the fact that the said predecessor of theplaintiff did not pay the land rent for the period of 27th year of Meiji; and the fact that the declarationsas to the nullification of the title deeds by the American Consul had been recalled and that this fact had been duly notified.

But the pliantiff insists that though Edward Lake tried to pay the land rent on behalf of the plaintiff, the Government treasury refused to receive it on the ground that the notice of the rent due had not been sent out; and that afterwards, although he went several times to the Kencho to pay the rent he was always refused. The plaintiff insists that there was no obligation to pay the rent in advance and that the failure to pay it within the set time could not be made the ~~gr~~ ground of cancelling the lease since it

had been practiced for many years.

Besides these, the declarations and pleas of the parties relating to the evidence are given in the following reason.

The reason.

The defendant seems to think that the fact of the declaration relating to the nullification of the title deed by the American Consul with reference to the predecessor of the plaintiff constitutes a reasonable ground for the cancellation of the said lease. But according to exhibit No. 2, B presented by the defendant to establish the declaration of nullification, only such words as " I will declare the title deeds null and void" are written and from these it is not clear to whom and in what manner he made the declaration. Moreover the American Consul afterwards imformed the defendant that this declaration of nullification had been=re revoked; therefore it can not be acknowledged that the said declaration of nullification has the effect of really cancelling the lease of the predecessor of the plaintiff.

However, in the last article of the exhibit No. 4, B (agreement of lease) there is a clause that " George W. Lake or his successor who assumes all his responsibility must pay in advance (Maibiro) every year,thirty seven Mexican dollars per one hundred tsubo as the land rent and if it should be neglected the title deed shall be treated as above stated and the buildings thereon shall also be treated as above specified" and in the last part of the article just preceding the last there occurs the following provision; " This title deed shall become void and the buildings thereon shall be treated as above specified" and these provisions mean that the land rent must be paid in advance or the deed shall become void. Therefore if it be a fact that the predecessor of the plaintiff had neglected to pay the rent in advance, it was proper for the defendant to recognize the forfeiture of the title deeds and the nullification of the lease and therefore the claim of the plaintiff has no grounds.

The plaintiff insists that the phrase " in advance every year " (Nenju ni maibiro) means " in the begining of every year, " or " during the course of the year " and that it does not mean

any=time

any time " before the year begins " and that therefore all that he is required to do is to pay the rent any time during the course of the year.

The term "Maibiro" (beforehand or in advance) may mean "not too near the close of a fixed time" and is used frequently with the meaning of "Mai-motte"(in advance); so it is very clear that in the last article of the exhibit No. 4, B it is used with the meaning of "before the term of the year begins."

(This explanation does not conflict with the meaning of the expression translated into the English language which is annexed to that exhibit.)

Also, the plaintiff insists that, since it is not written in the first article of the exhibit, No. 4 B that the rent must be paid in advance, therefore there is m no reason to acknowledge that the land rent written in last article only must be paid in advance. But the first article refers to the land rent payable in the first year of the lease, while the last article relates to the payment of the rent after the first year, so it is clear that the provisions of the two articles are not the same.

The plaintiff also insists that the payment in advance was not always practiced between the two parties as is shown in exhibit No. 3,A, so that though it was not always performed strictly during the term of the 27th year of Meiji, there is no reason why he should forfeit the lease. But the predecessor of the plaintiff always neglected to pay the rent at the fixed time as shown in exhibit No. 3, A, and the defendant overlooked it; but though he did so in one case, there is no reason why he must do so in another. Therefore he can not be excused from the obligation to pay the rent in advance and from the other consequences resulting from his neglect.

Now it is necessary to examine whether the predecessor of the plaintiff had neglected the obligation to pay the rent in advance or not.

The fact that the predecessor of the plaintiff did not appoint a manager when he left Nagasaki is proved by exhibit No. 9, B;

the fact that the defendant requested the American Consul to collect the rent before the 31st of July of the 27th year of Meiji by some reasonable method and that he did not succeed is proved by the exhibits No. 1,B and No. 2, B. Thus it is clearly established that the plaintiff's predecessor must be responsible for the neglect of payment.

The fact insisted upon by the plaintiff, that Edward Lake had tried to pay the rent, does not afford sufficient reason why the responsibility of the plaintiff's predecessor for the non-payment of the rent should be remitted. For not only was his payment offered after the proper time to pay the rentexpired, but also in the 2nd article of exhibit No 4, B and in the following article it is written that the lease can not be transfered without the permission of the defendant; and also in the last article of the same exhibit occured these words " George W. Lake or his successor who has authority to make payment for him;" by this provision we can readily suppose that the person who shall pay the rent is fixed and that it is prohibited that a third person shall acquire the lease by simply paying the rent; and as the plaintiff states, the said Edward Lake is only a relative and not the successor who has the authority to make payment for him as written in the last article of exhibit No. 4 B, therefore the defendant had no obligation to receive the land rent tendered by the said Edward Lake.

For the above raesons, the claim of the plaintiff is recognized to be ungrounded and we hereby decide as written in the main clause.

Shono Hiroki, chief judge
Itanaga Sukenori, judge.
Naito Maisuke, judge in the civil case Department in the Nagasaki District Court.

The Record of the Pleading.

Plaintiff, Frederick B.Lake.

Defendant, Nagasaki Ken,
Yamaguchi Naomichi
the legal representative of
Nagasaki Ken.

Relating to the matter of the claim for the acknowledgement of a perpetual lease and the delivery of the land, No. 67. (wa) of the 33rd year of Meiji(1900) between the said parties, in the civil case department of the Nagasaki District Court, at 11, a.m. May 5th, the 33rd year of Meiji.

Honda Tsuneyuki and Maruoka Takiji, the attorneys of the plaintiff and Yamaguchi Naomichi, the defendant, and Hazama Shin, the public procurator, having appeared, and Shono Hiroki, the chief judge, Itanaga Skenori, judge and Naito Maisuke, judge, being present together with the clerk, Yoshida Makoto, the court was finally opened and the proceedings were as follows:--

Maruoka, the attorney of plaintiff applied to correct the phrase" Ship building A" in the written complaint, which had been written by mistake for the phrase " ship building B," and he explained the facts and the ground of the claim according to the written complaint.

The defendant explained the facts according to his written rejoinder and the reason of the defence and further stated as follows:-

I. It is a fact that the defendant had leased the land in question to the predecessor of the plaintiff.
Although the land was outside of the foreign settlement, it was leased according to the same regulations as applied to the settlement; therefore the rent ought to be paid in advance.

However the plaintiff having neglected to pay the rent, the defendant requested the Consul to ~~correct~~ collect the rent from the plaintiff before July 31st, of the 27th year of Meiji (1894) and also gave notice that if the plaintiff should not pay, the title deeds must be taken away and the land and buildings must be transfered to the Government according to the provisions of the title deeds. On the 10th of September 1894, the American Consul

answered that he had declared the title deeds null and void.

The chief judge questioned the defendant, upon the application of the plaintiff, and he answered as follows:-

I. Perhaps the letter"A" or "B" might have been translated differently by various officials, but the original receipts for the rent had been written in the Japanese language and in the title deeds also it had been written as "(B)" (Otsu).

2. Formerly the Kencho had received the rent directly in each case, but about 25th or 26th year of Meiji (1892, or 1893,) the Kencho issued an order to pay the money to the bank.

3. After August 25th, 1894, G. W. Lake, the younger brother of the plaintiff came to the Kencho to pay the rent for the lot of land in question; but the Kencho having already received imformation from the consul to the effect that he had declared the title deeds null and void, had refused to receive the rent.

Also there was another reason for refusing the payment; for G. W. Lake was the attorney of the plaintiff when he left Japan at first, but Lake was not so when the plaintiff left the second time; therefore when he offered to pay the rent after August 25th he ought to be recognized , not as the representative of the plaintiff, but as a third person.

4. The rent for the ensuing year ought to have been paid up before March 31st, the 27th year of Meiji(1894) and the notice of payment due ought to have been issued ten days before the last day for payment; therefore the Kencho had issued such notice before March 31st, 27th year of Meiji(1894).

5. About the twenty sixth year of Meiji(1893), several times during one or two years, the Kencho had asked and consulted with the higher officials relating to the procedure; so perhaps some notice for payment may have been issued after the last day for payment.

6. George W. Lake never paid the the rent before the last day for payment, and the Kencho had received it after the report about his neglect had been made to the higher officials and the declaration made by the Consul; therefore perhaps there might be

some receipt in the possession of the plaintiff, by which it was clear that the Kencho had received the rent after the last day of payment. But the above fact did not mean that the defendant had neglected to receive the rent duly offered, but rather that he could not help receiving it after the due time because of the plaintiff's negligence.

7. Sometimes the Kencho had issued a written order for collection after the 31st of March as a matter of convenience.

Further he stated:-

I. The predecessor of the plaintiff had been deported twice from Japan and his second punishment was in April of the 27th year of Meiji and at that time he left without paying the rent and moreover did not appoint an attorney.

2. There was a regulation that the declaration of the Council was necessary to make the lease void and null and in the title deeds it was written that if the land rent should not be paid, the deeds should become void.

The chief judge ordered to begin the examination of the evidence.

The plaintiff presented the exhibits from No. 1, A to No. 4,A and explained the idea of his proof as follows:-

Honda, attorney of the plaintiff, argued as follows:-

I. The exhibit No. I, A,proves that on the 22nd of August of the 27th year of Meiji, Sakamoto Seiji offered the land rent to the Kencho at the request of the plaintiff.

2. The exhibit No. 2, A,proves that on the 25th day of August of the 27th year of Meiji, Edward Lake went to the Kencho, with the intention of paying the land rent and on arrival he found no officer there to receive the money.

3. The exhibits from I to 12 of No. 3, A prove that the fixed period for the payment of rent was not observed strictly between the two parties. The exhibits from I to 4 of No. 4, A,proved that the Kencho had issued the notice for payment after the fixed period had expired.

The defendant stated as follows, presenting the exhibits from

No. I, B, to No. 9, B.

I. The exhibit No. I, B, proves that the Governor of Nagasaki Ken had requested the Consul who had authority in the premises to transfer the title deeds because of the non-payment of the land rent in advance, which was a violation of Article 6 of the Land Regulations of Nagasaki Ken.

2. The exhibit No. 2, B, proves that the consul had declared the title deeds null and void according to the above request.

3. The exhibit No. 3, B, proves that the Governor had requested the Consul to deliver the title deeds and the notice for payment.

4. The exhibit No. 4, B, proves that the consul had delivered the title deeds and the notice of payment according to the above request.

5. The exhibit No. 5, B, proves that the Governor had imformed the consul of the sale at public auction of the buildings and the machinery on the land in question.

6. The exhibit No. 7, B, proves that the defendant took the land away from the plaintiff and returned it to the owner.

7. The No. 8, B, proves that the consul answered he could not be responsible for any loss.

8. The exhibit No. 9, B, proves that when Lake left Japan the second time, he did not appoint an attorney.

Maruoka, attorney of the plaintiff said that the plaintiff would affirm or deny after an examination of the documents presented as exhibit No. B, to-day for the first time, and he applied for a postponement of the hearing to enable the plaintiff to present evidence refuting exhibit No. B

Further he applied to the court to call Sakamoto Seiji as a witness and to question him about the facts st set forth in exhibit No. I, A, and he said that he would present afterwards the documents relating to the above application.

The defendant said that he would affirm or deny the exhibit No. A after examination.

The chief judge granted the plaintiff's application for postponing the hearing and he said he would decide whether or not to grant the plaintiff's application for calling a

a witness after the document of application had been presented and he ordered the court to adjourn.

May 5th, 33rd year of Meiji.

Yoshida Makoto, clerk.

Shono Hiroki, Chief Judge, in the Civil Case Department of the Nagasaki District Court.

Record of the Hearing (continued).

In the same place as at the first session at 11 a. m. on the 29th May 33rd year of Meiji (1900), the parties appeared, and the ~~before~~ the court, constituted as before, the hearing was continued as follows:

The chief judge ordered to continue the hearing where it had been left off at the first session and he declared his decision to reject the application to call a witness.

Honda, attorney for the plaintiff said as follows:-

I. The date 22nd of August on the certificate of Sakamoto presented as exhibit No. I, A, was the last time on which he went to the Kencho. Before that time, on the 22nd of April, Edward Lake had offered the plaintiff's rent to the government treasury together with the rent of his own lease, but the treasury had refused to receive any except Edward Lake's own rent for the reason that the notice for payment of the plaintiff's rent had not yet been sent. Afterwards the plaintiff attempted several times to pay the rent, and the date 22nd of August, was the last time on which he brought money to the Kencho for that purpose.

The above fact is proved by exhibit No. 5, A, and the attorney applied to call Sakamoto Seiji as witness to prove the above fact and stated that he would present afterwards the documents relating to the application.

The parties explained as follows in reply to the question of the chief judge .

The defendant stated as follows:

The owner of the land in question is Kosone Shintaro and the Kencho had leased it from him and had rented it to the plaintiff.

The chief judge said that the court would decide about the application of the plaintiff to call a witness after the presentation of the said documents and would fix the time for continuing the hearing after the above decision.

He ordered the court to adjourn on 29th, May 33rd year of Meiji (1900).

Yoshida Makoto, clerk.

Shono Hiroki, chief judge.

Record of the hearing (continued).

In the same place as at the first session, at 4, p. m. 21st, June 33rd year of Meiji(1900), the parties appeared and before the same judges constituting the court, formally opened, the hearing was continued as follows:

The chief judge

ordered to continue the hearing from where it was left at the second session and he declared his decision to reject the application of the plaintiff to call a witness.

Maruoka, attorney of the plaintiff applied for a correction of the facts to be decided according to the documents.

The defendant

said that he had no objection to the plaintiff's application to correct the facts to be decided.

The defendant

explained as follows in reply to the question of the chief judge at the plaintiff's request.

I. The Consul had declared the title deeds null and void on 7th August of the 27th year of Meiji (1894) and had given notice of the same on September 10th of the same year.

2. The Consul, after his notification relating to the cancellation of the lease, had given notice that he revoked his former declaration according to the instruction from the American Minister dated 3rd of January, 1895; but before such notice was received the Kencho had returned the land to the owner in accordance with the declaration of cancellation; therefore the defendant could not admit the notice revoking the declaration of the cancellation.

3. On the 27th July of the 28th year of Meiji (1895) the buildings on the land in question had been sold by public auction.

4. The consul had notified the tenant of the cancellation of the lease and his notification is written clearly in exhibit No. 2, B.

5. The plaintiff did not come to pay the rent before the notification but came two or three times for that purpose after the said notification, though the times at which he appeared are not clear now, except that the last time was the 25th of August.

He further stated as follows:

I. There is no doubt about the transmitting of the receipts as shown by exhibits No. 3, A, and No. 4, A; but the fiscal year extended from January to December of each year until the 13th year of Meiji (1880) and from April to March, after the 18th year of Meiji until the present. Therefore the defendant had issued the notice for payment ten days before each period, according to the fiscal year.

2. The defendant can not say whether the amount of money claimed by the plaintiff is reasonable or not; but the defendant having no obligation in respect to the said claim, must refuse to pay that amount of money.

The attorney of the plaintiff

applied that the court should order to confine the pleading at first to the object of the suit and should give judgment concerning that point.

The chief judge ,

after consultation with other associate judges ordered the parties to plead about the object of the suit and also told to them that the judgment would be given on that point.

The defendant stated as follows:--

In the matter of the correction of the fiscal year, a difficult question had arisen as to the time of payment, so that different method of management had been fixed after a long consultation, lasting three or four years, between the higher department of the government and the Kencho. Therefore during three or four years, from about the 24th year of Meiji (1891) the notice of payment had been issued after the time fixed for payment .

Maruoka, an attorney of the plaintiff applied to reject the evidence of exhibit No. 4, A.

Further he stated that:

The land rent which Edward Lake, younger brother of the plain-

plaintiff, intended to pay in the 27th year of Meiji (1894) was payable for the period of the 28th year of Meiji (1895).

The defendant said as follows:

The land rent which Edward Lake, younger brother of the plaintiff intended to pay, offering it to the Kencho after the declaration of cancellation, was that payable for the term of 27th year of Meiji (1894).

Maruoka, an attorney of the plaintiff applied to use for the benefit of the plaintiff the evidence of exhibit No. 4, B; and he explained that there was a regulation by which the land rent had to be paid in advance (mai-biro) before the year expired, but not before the year began; and he said that the plaintiff proved the above fact by exhibit No. 4, B.

The parties argued about the facts and the results of the examination of evidence.

The chief chief judge ordered the pleading finished.

The public procurator appeared here and stated his opinion as follows:---

The time to pay the land rent is not written clearly in the deeds of lease. Who shall fix this time? The defendant must fix it according to the regulations and therefore he must take care as to the fixed periods. Even if it were not so, the fact is that originally the time was fixed for the benefit of the defendant and hither to there had been no obligation as to the notice of the time being fixed by the defendant; therefore it must be admitted that the plaintiff accepted the above mentioned notice. Also, it is impossible to say that the agreement as to the time had been cancelled by the payment of rent after the fixed time; rather it seems that the plaintiff had abandoned his right of lease from the fact that he had appointed no manager when he was ordered to leave the country in the 27th year of Meiji(1894); therefore the claim of the plaintiff should not be allowed.

The chief judge stated that

The judgement would be given at 10, a. m. June 26th and ordered the court to adjourn.

June 21st, 33rd year of Meiji (1900).

Yoshida Makoto, clerk.

Shono Hiroki, judge, chief judge.

At 10, a. m. the 26th, June 33rd year of Meiji, (1900) the court was formally opened in the same place as above mentioned .

The defendant appeared and the plaintiff was absent.

The court was composed of the same judges as the first time.

The judge gave his decision (as above recorded) and ordered the court to adjourn,

26th, June 33rd year of Meiji.

Yoshida Makoto, clerk.

Shono Hiroki, judge, chief judge.

Yano Shigeru Esq.,
President of the Civil Case Department
of the Nagasaki District Court.

The written declaration.

Plaintiff: Frederick B. Lake,
successor of George W. Lake.
No. 40(B) Kudarimachi, Oura,
Nagasaki-Shi.

Attorney of the plaintiff: Honda Tsuneyuki, an advocate,
No. 49, Motohakata-machi,
Nagasaki-Shi.

Defendant: Hattori Katsuzo, the Governor of Nagasaki Ken.

The matter of the claim to establishing a perpetual lease and for the delivery of a lot of land.

The purpose of the suit.

The plaintiff claims of the defendant the recognition of the plaintiff's perpetual lease on the lot of 765 tsubo of land; ship-building and milling lot, formerly called A, Kosonemachi, Nagasaki shi, and delivering of the land.

The roughly estimated value is twenty-two thousand Yen(Y.22000).

The fixed declaration.

The plaintiff requests a decision ordering the defendant to acknowledge the plaintiff's perpetual lease on the lot of 765 tsubo of land, shipbuilding and milling lot, formerly called A, Kosonemachi, Nagasaki-Shi, and to deliver the land to the plaintiff.

The relation of the fact.

In 1866and 1888, George W. Lake, the predecessor of the plaintiff acquired a perpetual lease on the above mentioned land and afterwards possessed it in safety; but in 27th year of Meiji(1894), the defendant refused without reason to receive the land rent offered by the plaintiff and he took over the land.

At the time of the pleading, the plaintiff will apply for the examination of the evidence,

on 11th, April 33rd year of Meiji(1900).

Honda Tsuneyuki.

Maruoka Takiji.

Power of attorney.

I hereby appoint Mr. Honda Tsuneki, an advocate, my true and lawful attorney to act in my behalf relating to the following matters:

I. A party: Hattori Katsuzo, the Governor of Nagasaki Ken.

2. The case: The matter ~~for the~~ claim ~~of~~ recognizing a perpetual lease and the delivery of the land.

3. The court: Tha Nagasaki District Court.

4. The limit of the mandate: A compromise, acceptance, rescission, receipt of thing paid by other, ~~appointment of a substitute,~~ appointment of a substitute, or any act in the course of a lawsuit.

April 11th, 33rd year of Meiji.

Frederick B. Lake.

Power of attorney.

I hereby appoint Mr. Maruoka Takiji, an advocate, my true and lawful attorney to act in my behalf relating to the following matters:--

I. The matter ~~for the~~ claim ~~of~~ acknowledging ~~the~~ perpetual lease and of delivering the land against Hattori Katsuzo, Governor of Nagasaki Ken.

2. I also grant him the authority to rescind the object of the suit, to make compromize, to withdraw the suit, to receive the payment or to appoint a substitute.

April 11th, 33rd year of Meiji.

Frederick B. Lake.

To Shono Hiroki Esq., judge, chief judge in the civil case department in the Nagasaki District Court.

The application to correct the object of the suit and the fixed declaration.

No. 67 (wa) 33rd year of Meiji.

The plaintiff hereby applies to correct the statement of the object of the suit as sum twenty- two thousand Yen (Y22000)and to correct the fixed declaration as follows:

The court shall give judgement to the effect that the defendant shall pay the sum of twenty-two thousand Yen,(Y22000) to the plaintiff.

June 21st, 33rd year of Meiji(1900).

Honda Tsuneki, the attorney of the plaintiff.

The plea against the claim to establish perpetual lease and the delivery of the land.

Plaintiff, Frederick B. Lake,
the successor of George W. Lake,
a citizen of U. S. A.
No. 40, B, Kudarimachi,Oura,
Nagasaki.

Attorney, Honda Tsuneki, an advocate , No. 50,
Motohakatamachi, Nagasaki.

Defendant, Hattori Katsuzo, Governer of Nagasaki Ken.

The object of the suit.

The shipbuilding and milling lot of 765 tsubos called A, Kosona Machi Nagasaki Shi.

The estimated value of the lot is twenty-two thousand Yen (22000).

Fixed declaration.

The defendant pays for a decesion that the claim of the plaintiff shall be disallowed and that the expenses of the suit be paid by the plaintiff.

The relation of the facts.

In the written complaint, the phrase " Ship-building lot fomerly called A," is written. But the plaintiff having no relation whatever to such land, it appears that the ship building lot B, is meant; so the defendant replies as follows relating to the above lot.

1. On the 7th, January 2nd year of Keiwo, the predecessor of the plaintiff acquired the lease of the ship-building and milling lot B. of 765 tsubo Kosonemachi; but on 14th, April 27th year of Meiji, he had been forbidden to live in the Empire according to ~~the~~ Article 6 of the Treaty between Japan and the United States of America and in the above

year he did not pay the land rent; therefore the defendant had announced the fact of his non-payment to W. H. Abercrambie, the consul of U. S. A. residing in Nagasaki and then, on September 10th 1894, the consul had informed the defendant that he had declared the title deeds null and void.

For the above mentioned reason, the defendant, having no obligetion against the claim of ~~plaintiff, applies~~ the plaintiff, applies to reject this claim

The method of the proof.

This facts in this suit will be proved afterwards.

April 25th, 33rd year of Meiji(1900)

Hattori Katsuzo,

the governor of the Nagasaki Ken.

Judge Yano Shigeru Esq.,

Chief of the civil case department in

the Nagasaki district court.

The application for rejection of the plaintiff's right of action.

Plaintiff: Frederick B. Lake,

the successor of George W. Lake,

a citizen of the U. S. A.

No. 40 B. Kudarimachi Oura ,

Nagasaki Shi.

Defendant: Hattori Katsuzo,

the governor of the Nagasaki Ken.

The object of the suit .

The ship-building and milling lot of 765 tsubo,formerly called A. Koseneemachi, Nagasaki Shi. The estimated value of the lot is twenty-two thousand Yen(Y22000).

Fixed declaration.

The plaintiff has had no relation to the lot, the object of the suit.

The reason.

In the written declaration, the phrase "Ship-building formerly called A" is written; but the defendant never rented such lot to th George W. Lake, the predecessor of the plaintiff. Therefore the plaintiff has no relation to the said lot and his suit shal

should be rejected.

May 5th, 33rd year of Meiji.

Hattori Katsuzo,

the governor of the Nagasaki Ken.

To Judge Yano Shigeru Esq.,

Chief of the civil case department of the Nagasaki district court.

I hereby appoint

Yamaguchi Nawomichi

a Nagasaki Kenzoku

as my representative to take charge of all the affairs of the law-suit in the Nagasaki District Court relating to the matter ~~for the~~ claim to establish a perpetual lease and for the delivery of the land, instituted by Frederick B. Lakethe successor of George W. Lake, a citizen of U. S. A. , in No. 40, B Kudarimachi, Oura Nagasaki Shi.

May 5th, 33rd year of Meiji.

Hattori Katsuzo,

governor of Nagasaki Ken.

A, No. I.

This is to certify that I went to the ~~Kencho of~~ Nagasaki Kencho with Yen 367 8/100 three hundred and sixty seven Yen and cents eighty seven by request of Mr. Edward Lake and there offered the money to Mr. Takahashi Motokichi and Mr. Yamaguchi Tordachi the Japanese Government Land officers in payment of the Japanese Government Land Rent on lot 40 A and 41 Sagarimatsu and lot B ship and milling promises Kozonemachi recorded in the name of Mr. Lake and the officers ~~requested~~ refused to receive the money from me or give a receipt.

Rent on lot 40 A	43.40
Rent on lot 41	41.44
Rent on ship & milling lot	283.05
	Yen367.89

Sakamoto Shoji,

Nagasaki, August 22nd 1894.

A No. 2.

This is to certify that I went to the Kencho in the city of Nagasaki with Mr. Edward Lake on the 25th day of August 1894, the intention being to pay land rent on lots 40AA 41.-Sagari-matsu and the ship building and milling lot.B kozonemachi. Mr. E. Lake taking the money for the purpose but on arrival found no one there to receive the money and grant receipt for same.

(Sgd) E. W. A. Smith.

No. 67 (wa) 33rd year.

Copies of the evidence.

A No. 3 (1)

Nagasaki, Sept. 20th 1876 (Meiji 9)

Received of Mr. Lake, a citizen of U. S.A. the sum of two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1876 to June 30th 1877 for the lot, ship-building place B.

Nagasaki Ken (seal)

A No. 3 (2)

Nagasaki July 30th 1877(Meiji 10).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1877 to June 30th 1878 for the lot, Kudarimatsu ship-building place first B.

Nagasaki Ken (seal)

A No. 3 (3)

Nagasaki Nov. 5th 1878(Meiji 11).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1878 to June 30th 1879, for the lot, ship-building place B.

Nagasaki Ken (seal).

A No. 3 (4).

Nagasaki, Sept. 15th 1879(Meiji 12).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1879 to June 30th 1880, for the lot, ship-building place B. Nagasaki Ken (seal).

A No. 3 (5).

Nagasaki, Dec. 4th 1880(Meiji).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1880 to June 30th 1881, for the lot, Kudarimatsu,

Ship-building place No. 1 B.

Nagasaki Ken (seal).

A No. 3 (6).

Nagasaki, Dec. 7th 1881 (Meiji 14).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents ~~the~~ foreign silver as rent of one year from July 1st 1881 to June 30th 1882, for the lot, ship-building place B.

Nagasaki Ken (seal).

A No. 3 (7).

Nagasaki, Nov. 6th 1882 (Meiji 15).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1882 to June 30th 1883, for the lot, ship-building place B.

Nagasaki Ken (seal)

A No. 3 (8).

Nagasaki, July 15th 1884 (Meiji 17).

Received of Mr. Lake, a cizen of U. S. A. two-hundred fourteen dollars foreign silver ~~and~~ from July 1st 1884 to June 30th 1885, for the lot, Kudarimatsu, ship-building place, the first B.

Nagasaki Ken (seal).

A No. 3 (9).

Nagasaki, Aug. 12th 1885 (Meiji 18).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from July 1st 1885 to March 31st 1886, for the lot, Kudarimatsu, s ship building place the first B.

Nagasaki Ken (seal).

A No. 3 (10).

Nagasaki, April 7th 1886 (Meiji 19).

Received of Mr. Lake, a citizen of U. S. A. two-hundred foueteen dollars and sixty cents foreign silver as the rent of one year from April 1st 1886 to March 31st 1887, for the lot, ship-building

place B.

Nagasaki Ken (seal) .

A No. 3 (11).

Nagasaki, June 2nd 1887(Meiji 20).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of the one year from April 1st 1887 to March 31st 1888, for the lot, Kudarimatsu, ship-bulding place.

Nagasaki Ken (seal).

A No. 3 (12). Nagasaki, April 8th 1889(Meiji 22).

Received of Mr. Lake, a citizen of U. S. A. two-hundred fourteen dollars and sixty cents foreign silver as the rent of one year from April 1st 1889 to March 31st 1890, for the lot, Kudarimatsu, ship-building place, No. 1 B.

Nagasaki Ken (seal).

A No. 3 (13).

June 6th 1889 (Meiji 22).

Received of Mr. Lake, a citin of U. S. A. foreign silver.....
.....$ 68. C. 45 as the increased rent for one year from April 1st 1888 (Meiji 21), to March 31st 1889(Meiji 22),
foreign silver .....$ 68. C. 45 as the increased rent for one year from April 1st 1889(Meiji 22) to March 31st 1890(Meiji 23),
Total.....$ 136. C. 90,
relating to the lot, ship-building place B.

Nagasaki Ken (seal).

A No. 4 (1).

No. 270, For 1890(Meiji 33)

payable by Lake, a citizen of U. S. A.

Current revenue.

The revenue for the property owned by Government .

The rent of the property owned by Government.

The rent of the ground.

Received two-hundred eighty three dollars and five cents foreign silver as the rent of ship-building lot, Kosonemachi.

May 8th 1900(Meiji 23)

Nakamura Jiro

a revenue officer

Secretary of Nagasaki Ken.

A No. 4 (2)

No. 1. For 1891(Meiji 24)

payable by Lake, a citizen of U. S. A.

Received two-hundred eighty three dollars and five cents foreign silver as the rent of lot, Kosonemachi ship-building place B.

June 14th 1891 (Meiji 24)

Nagasaki Ken

Chiji Kwanbo

Private Sectary

to the Governor.

A No. 4 (3)

No. 2. For 1892 (Meiji 25)

payable by Lake, a citizen of U. S. A.

Received two-hundred eighty three dollars and five cents foreign silver as the rent of lot, Kosonemachi ship-building place B.

June 14th 1891 (Meiji 25)

A No. 4 (4)

No. 262. For 1893 (Meiji 26)

payable by Lake, a citizen of U. S. A.

Current revenue. Miscelaneous revenue. Miscelaneous income.

The rent of lot, ship-building place .

Received two-hundred three dollars and five cents foreign silver for the lot, Kosonemachi, ship-building place B.

Aug. 26th 1893 (Meiji 26)

Arikawa Jujiro, Nagasaki Ken,

Revenue officer in Nagasaki Ken.

We certify that the above documents are ~~the~~ true copies of the originals.

May------ 1900

Hosada Tsuneki-attorney of the plaintiff,

Maruoka Takiji-attorney of the plaintiff.

B No. 1. July 24th 1894.

No. 182

W. H. Abercrumbie

United States Consul

Sir,

I have the honor to acknowledge the receipt of your letter dated June 13th relating to the failure to pay the land rent by George W. Lake and M. C. Carlsen, both being the citizens of your country, who did not pay until to-day.

You wrote about "during a fiscal year"; but the land rent ought to be paid in advance according to the Article 6 of the land regulation; so I wish they will pay ~~should~~ all before the 31st of this month by your endeavour; but if they ~~shall~~ do not pay at all before that time, I wish you will take away from them the title deeds by the provision of ~~that~~ those deeds and will deliver the land and building thereon to the Kencho.

I have the honor to be

Sir

Yours obedient servant

Omori Shoichi

Governor.

B No. 2.

No. 627 United States Consulate.

Nagasaki, Japan,

August 7th 1894.

C. Ohmori Esq.,

Governor of the Nagasaki Ken,

Kencho.

Sir,

I have the honor to acknowledge the receipt of your letter dated July 24th requesting the transfer to the Japanese Government of title and building on lot Nos. 40 A and 41 Sagarimatsu and ship-building yard A Kozone belonging to G. W. Lake.

At your request I will declare the title deeds null and void and authorize you to sell at public auction buildings thereon and after all expenses of sale etc., incurred by you

have been deducted including the advance ground rents the ~~supplies~~ surplus to be returned to me for the benefit of G. W. Lake or his creditors.

If it were possible for Lake to appear before this Consular Court sitting with associates, there can be but little doubt that the judgement would be in accordance with the above.

In a case tried before the British Consular Court in Nagasaki in 1885 under similar circumstances, the defendant, however, being present at Court, judgement was given in accordance s with th the above and accepted by the Japanese authorities without demur.

I feel confident that under the peculiar circumstances of the compulsory absence of G. W. Lake and of the imposibility of his being summoned before me acting judicially, youwill show ➡ the same desire for equity and equity alone as has at all times characterized citizens of the United States. transactions between yourself and

I have the honor to be,

Sir,

Your obedient Servant,

(signed) W. H. Abercrombie,

U. S. Consul.

B No. 3.

No. 206 The ~~translation~~ transaction about the lease of Lake.

From Ohmori, Governa to W. H. Abercrombie, American Consul August 31st 1894.

Sir,

I have the honor to acknowledge the receipt of your letter dated 7th of this month imforming about the declaration of the title deeds' nullification of lots. 40 A and 41 Sagarimatsu and ship-building place A Kozonemachi, formerly leased by George W. Lake and also imforming of the sale at public auction the buildings thereon. If you had declared the title deeds of that lot null and void, please return to the Kencho, the original and copy of the title deeds and the notice for payment of the rent for this year sent by me; and I will sell at public auction buildings and the price, after all expenses of sale incurred by have been deducted, including the advance transmitted ground rents, if there are ~~to be~~ a surplus it shall be returned to you.

have been deducted including the advance ground rents the ~~supplies~~ surplus to be returned to me for the benefit of G. W. Lake or his creditors.

If it were possible for Lake to appear before this Consular Court sitting with associates, there can be but little doubt that the judgement would be in accordance with the above.

In a case tried before the British Consular Court in Nagasaki in 1885 under similar circumstances, the defendant, however, being present at Court, judgement was given in accordance s with th the above and accepted by the Japanese authorities without demur.

I feel confident that under the peculiar circumstances of the compulsory absence of G. W. Lake and of the imposibility of his being summoned before me acting judicially, youwill show ➡ the same desire for equity and equity alone as has at all times characterized transactions between yourself and citizens of the United States.

I have the honor to be,

Sir,

Your obedient Servant,

(signed) W. H. Abercrombie,

U. S. Consul.

B No. 3.

No. 206 The ~~translation~~ transaction about the lease of Lake.

From Ohmori, Governa to W. H. Abercrombie, American Consul August 31st 1894.

Sir,

I have the honor to acknowledge the receipt of your letter dated 7th of this month imforming about the declaration of the title deeds' nullification of lots. 40 A and 41 Sagarimatsu and ship-building place A Kozonemachi, formerly leased by George W. Lake and also imforming of the sale at public auction the buildings thereon. If you had declared the title deeds of that lot null and void, please return to the Kencho, the original and copy of the title deeds and the notice for payment of the rent for this year sent by me; and I will sell at public auction buildings and the price, after all expenses of sale incurred by have been deducted, including the advance transmitted ground rents, if there are ~~to be~~ a surplus it shall be returned to you.

Please deliver the building thereon with the list.

B No. 4.

United States Consulate,
Nagasaki, Japan,
September 10, 1894.

C. Ohmori Esq.,
Governor of Nagasaki Ken,
Kencho.

Sir,

I have the honor to ~~tarnsmit~~ transmit Consular copy of title deeds for lots 40 A and 41 Sagarimatsu and shipping place A formerly leased by George W. Lake and now declared by me null and void and so entered upon the transfer Book.

The originals are I presume in the possession of George W. Lake and can not be obtained by ~~you~~ me.

I am, Sir,
Your obedient servant,
(Signed) W. H. Abercrombie
U. S. Consul.

B No. 5.

No. 55.

Nagasaki Kencho,
April 19th 1895.

~~From Ohmori, Governor,~~ ~~To W.H. Abercrombie, American Consul~~

Sir:

I have the honor to imform you that on receipt of your letter, dated January 3rd last regarding the lots 40 A and 41 Sagarimatsu and ship building place A Kozonemachi, I ~~request~~ reported the matter at once to my Government and I have now received instructions to sell the Rice Mill, Engine and other articles belongimg to Mr. George W. Lake, an American citizen left at the said place and to hand over to you the proceeds of the sales.

I therefore will put at the Public auction on the 30th instant the said Rice Mill, Engine, &c, referred to above together with all buildings on the said Ship-building place and after deducting the land rent due and such expenses as may incur in connection

with the sale, I will transmit to you the remainder of the amount.

I have the honor to be,

Sir,

Your obedient servant,

(signed) Ch. Ohmori

Governor of Nagasaki Ken.

Dr. W. H. Abercrombie,

U. S. Consul,

Nagasaki.

B No. 6.

No. 811.

United States Consulate,

Nagasaki, Japan,

April 19th 1895.

C. Ohmori Esq.,

Governor of Nagasaki Ken,

Kencho.

Sir:

I have the honor to acknowledge the receipt of your communication of the 19th inst., advising me that you have been instructed by your Government to sell the Rice Mill, Engine and other articles belonging to G. W. Lake, an American citizen left at the Ship-building place A Kozonemachi.

In reply thereto, I herewith enter my protest against such sale.

I am, Sir,

Your obedient Servant,

(signed) W. H. Abercrombie

U. S. Consul

B No. 7.

No. 58. The draft of theletter relating to the transaction of building on the lot, ship-building place B.

W. H. Abercrombie Esq.,

U. S. Consul

Sir:

I have the honor to acknowledge the receipt of your letter dated 19th inst., in relation of your protest against the sale by the public aution of Rice Mill , Engine & etc. in the lot, ship-building place B,-------Kozonemachi, belonging to G. W. Lake, an American citizen. But I had returned already the lot of ship-building place to the owner according to your letter dated 10th of September; therefore if it shall be postponed to take away the building thereon, the owner shall make loss every day; so I beg to ask whether you shall be responsible for any loss caused to the owner or not, if you will protest the sale at the public Auction.

I am, Sir,

Your obedient servant,

Omori Shoichi.

B No. 8.

United States Consulate,

Nagasaki, Japan,

April 29th 1895.

C. Ohmori Esq.,

Governor of Nagasaki Ken,

Kencho.

Sir,

I have the honor to acknowledge the receipt of your letter of 26th inst., in relation to the sale of Rice Mill Engine &c. belonging to G. W. Lake, an American citizen, at ship-building place A, Kozonemachi. In reply thereto I have to imform you that I can not be responsible for any loss that may be caused to the owner of the said land.

I am, Sir,

Your obedient servant,

(signed) W. H. Abercrombie

U. S. Consul.

B No. 9.

B No. 9.

United States Consulate,
Nagasaki, Japan,
June 26th 1894.

Dear Sir;

In reply to your note I have to say that when Geo. W. Lake was deported in 1871 his brother Edward Lake was his attorney here, but since his return this was revoked, and he left Japan again by order of Japanese authorities and refused to appoint another attorney instead and consequently he has no attorney present.

Yours truly,

(signed) R. S. De Souzer

H. C. Yoneta,
Land office, Kencho.

Certificate of Title.

By Yoshio Kusaka,
Governor of Nagasaki Ken.

Having received a communication from the U. S. Consul, stating thatthe merchant Geo. W. Lake has applied to rent a lot of land for ship-building place and rice milling purposes at this port of Nagasaki-- such lot of land being a Sagarimatsu front lot, and shown on the plan as Ship-building place A measuring area seven hundred and sixty five Tsubo, bounded as per plan in the Japanese certificate annexed that the said Geo. W. Lake having paid the sum of 28305 dollars, Mexican, being rent from April 1st 1889 to March 31st 1890 for the said land at the rate of thirty seven dollars per 100 Tsubo,------I do hereby declare that the said Geo. W. Lake, his heirs, executors and assigns, are entitled to hold and occupy the said lot of ground so long as he or they pay the said annal rental, subject to the following conditions;-

For as much as the tenure of the ground held by Foreigners under treaty is such that no proprietor can claim an unlimited or unconditional right therein, or exercise any right of transfer except to a foreigner having a recognized right of residence

within the Empire of Japan, and to whose occupation of Land and Tenement there exists no valid objection on the part of the Consular or Japanese Authorities; and in as much as no Japanese Subject can legally enter into possession of land or tenements within the Foreign Quarter, unless both the Japanese and Consular Authorities grant him an Official Act of Authorization under their seals of office legalizing such transfer of interest, which said act may be granted or refused in the exercise of their discretion;

The Conditions of this Deed, therefore are:-

That if the said Geo. W. Lake, his heirs, executors or assigns shall hereafter make over to another party his or their interest in the ground now rented to him, without reporting the same to his or their Consul, and through him to the Governor for the time being, for their joint assent and concurrence, and for due registration of the transaction in their respective Records; or if the said Geo. W. Lake, his heirs, executors or assigns, shall at any time ~~be~~ transfer or make over the whole or any part of the above-named Lot of ground; or let or permit the same to be let or leased to Japanese, without the before-mentioned Act of Authorization first had and obtained; or, the said Geo. W. Lake his heirs, executors or assigns, shall neglect to pay yearly in advance the said Annual rental of thirty seven Dollars, Mexican, per 100 Tsubo; or if the said George W. Lake, his heirs, executors or assigns shall fail to conform to such Regulations or Agreements now made, or hereafter to be made by the Governor of Nagasaki and the Consuls in ~~connection~~ conjunction; then and in each of these several cases, this Deed shall become null and void, and the buildings on the said land shall become the property of the Japanese Government.

A neccessary Deed for the Renting of Land. First day of fourth month of the twenty second year Meiji corresponding with the first day of April, one thousand eight hundred and eighty nine.

True Translation

M. Takahashi.

~~Seal of the Government~~

{Seal of the Government of Nagasaki}

U. S. Consulate,

Nagasaki, May 20th 1889.

Recorded ~~Received~~ in the Land Records Book folio 250.

(Signed) John M. Birch

U. S. Consul.

Consulate of the United States,

Nagasaki, Sept. 10, 1894.

Declared null and void on account of failure to pay the ground rent, and transferred to the Japanese authorities according to Article 6 of Land regulation and Geo. W. Lake having been deported from Japan.

(Signed) W. H. Abercrombie,

U. S. Consul.

Application for examining witness.

No. 67(wa) 33rd year of Meiji.

Sakamoto Seiji,
c/o S. Sakamoto Zenjiro,
Sotouramachi Nagasaki Shi.

We hereby apply to call the above person as witness in this case to be questioned about the following matters:

The fact that the Kencho had refused to receive the land rent relating to the lot of 765 tsubo, ship-building and milling place B, Kozonemachi, Nagasaki Shi offered by him during August of 27th tear of Meiji (1894) and the exact facts relating to the above.

May 14th 1900

Komida Tsuneuki,
attorney of plaintiff.

Maruoka Takiji,
attorney of plaintiff.

This application is rejected.

~~The application for examining witness.~~

The application for examining witness.

Sakamoto Seiji,
c/o Sakamoto Zenjiro,
Sotouramachi, Nagasaki Shi.

We hereby apply to call the above person as witness in the case of No. 67(wa) 33rd year of Meiji (1900) to be questioned about the following matters:

The fact that the witness offered to the Nagasaki government treasury the land rent for the lot of No. 39, Kudarimatsu and the land rent for the shipbuilding and milling lot, formerly called A, Kozonemachi, at the request of Geo. W. Lake and Edward Lake on 2nd April of 27th of Meiji (1894), but that the government treasury refused to receive the rent of George W. Lake, though that office had accepted that of Edward Lake. The witness had offered it directly to the Nagasaki Kencho and again it was rejected by an officer in the Kencho.

June 13th 1900

Honda Tsuneki, the attorney of the plaintiff.

Maruoka Takiji, the attorney of the plaintiff.

To Judge Yano Shigeru Esq.,
Chief of the civil case department,
Nagasaki District Court.

Application for serving a copy of the written Judgment.

Plaintiff: Frederick B. Lake.
successor of George W. Lake,
an American citizen, No. 40 B
Sagarimatsu, Oura, Nagasaki Shi.

Defendant: Hattori Katsuzo,
Governor of Nagasaki Ken.

No. 67(wa) 33rd year of Meiji (1900)

I hereby apply to serve to the plaintiff and the defendant copies of the written judgment which was rendered on 26th June 33rd year of Meiji (1900) relating to the matter ~~for~~ of a claim ~~for~~ acknowledging ~~the~~ a perpetual lease and delivering the land.

33

June 27th year of Meiji.
Yamaguchi Nawomichi,
Nagasaki Kenzoku,
the legal representative of the
defendant.

To the department of clerks
in the Nagasaki District Court.

No. 9894. 33rd year of Meiji.
5 cents for the service fee.

No. 67 (wa) 33rd year of Meiji.

Writ of service(Sotatsu jo)

I hereby serve upon you by the shittatsuri belonging to the Nagasaki local court a copy of the written judgment.

Shittatsuri(public officer whose sole business is to serve writs.)
4th July 33rd year of Meiji.

Yoshida Makoto, clerk,
Nagasaki District Court.

To Honda Tsuneki Esq.
Maruoka Takiji Esq.

Seal and signature of the receiver-Honda Tsuneki.
date of service 11 A. M. July 5th 33rd year of Meiji
place of service the advocate's room.

5th July 1900
Nishino Tojiro
Shittatsuri in the local court.

Writ of Service.

No. 67 (wa)33rd year of Meiji.

I hereby serve upon you by the shittatsuri belonging to the Nagasaki Local court a copy of the written judgment.

July 4th 1900

Yoshida Makoto,clerk.
Nagasaki District court.

To Yamaguchi Esq.,
Nagasaki Kenzoku.

Seal and signature of the receiver. Yamaguchi Nawomichi
date of service 11 A. M. July 5th 1900
place of service Nagasaki Kencho
July 5th 1900 Nishino Tojoro
Shittatsuri, Nagasaki
Local court .

Writ of service relating to declaration.

No. 67 (wa) 1900.

The court serves upon you the declaration of the matter in the claim ~~of~~ to establishing a perpetual lease and of the delivery of a lot between Frederick B. Lake, a American citizen and Hattori Katsuzo and you ought to present the pleas within fourteen days and must appear before this court at 9. A. M. May 5th 1900 for the pleading .

April 12th~~1900~~ 33rd year of Meiji (1900)
Nagasaki district court.

To Hattori Katsuzo Esq.
Governor of Nagasaki Ken.

Seal and signature of receiver. Tanaka Tsunezo
a government employee
of Nagasaki Ken,
in Nagasaki Kencho.

date of service. 20m 4 P. M. 13th April (1900)
place of service. Nagasaki Kencho.
the reason,(if served upon employe)
The principal person was absent, so it was delivered to the person who was on duty.

April 13th 33rd year of Meiji.

Kusaki Kenji
Representative of Iwanaga Tatsu
shittatsuri of Nagasaki Local Court.

Writ of summons.

No. 67(wa) 33rd year of Meiji.

The court orders you to appear before this court at 9 A. M. May 5th 1900 for pleading in the case of the claim ~~of~~ to establishing a perpetual lease and of the delivery of a lot of land between Frederick B. Lake, an American citizen and Hattori Katsuzo.

April 12th 33rd year of Meiji(1900)

Kume Kisaku, clerk.
Nagasaki district court.

To Honda Tsuneki, attorney of plaintiff
Maruoka Takiji.

Seal andsignature of receiver Honda Tsuneki
Date of service 2 P. M. April 13th 1900.
Place of service No. 49 Moto Hakatamachi
April 13th 1900
Ito Tsuma
Representative of Iwako Tasu, shittatsuri

Nagasaki Local court

Writ of service.

No. 67 (wa) 33rd year.

I hereby serve upon you the plea by shittatsuri, belonging to the Nagasaki Local court.

May 2nd 1900

Yoshida Makoto, clerk

Honda Tsuneki, attorney of plaintiff.
Maruoka Takiji, attorney of plaintiff.

Seal and resignature of receiver. Honda Tsuneuki.
Date of service, 10 A. M. May 3rd 1900
Place of service, No. 49 Moto Hakatamachi.

May 3rd 33rd year of Meiji
Kusaka Kenji
representative of Iwanaga Tatsu,
Nagasaki Local court.

Writ of service.

No. 67 (wa) 33rd year.

I hereby serve upon you,

The copies of evidence.

by a shittatsuri belonging to Nagasaki Local court.

May 11th 1900

Kume Kisaku, clerk,
Nagasaki district court.

To Hattori Katsuzo,
Governor of Nagasaki Ken.

Seal and signature of receiver. Tanaka Tsunezo,
a government employe
in Nagasaki Ken.
Date of service. 9 A. M. May 12th 1900
Place of service. Nagasaki Kencho
The reason why it was delivered to an employe
The principal person was absent, so it was delivered to Tanaka Tsunezo.

May 12th 1900

Hirano seiichi.
Representative of Iwanaga Tatsu
Shittatsuri of Nagasaki Local court.

Writ of summons.

No. 67(wa) 33rd year of Meiji(1900)

The court orders you to appear here at 11 A. M. May 29th 1900 to for the pleading relating to the matter of claim ~~of~~ establishing a perpetual lease and of delivery a lot of land between Frederick B. Lake an American citizen and Nagasaki Ken.

May 16th 1900

Yoshida Makoto, clerk.
Tokyo district court.

Honda Tsuneuki Esq., attorney of plaintiff.
Maruoka Takiji Esq., attorney of plaintiff.

Seal and signature of receiver. Honda Tsuneuki.

Date of service. 11A. M. May 17th 1900

Place of service. No. 49 Moto Hakatamachi.

May 17th 1900
Nakamura Kinzo,
Representative of Iwanaga Tatsu,
Shittatsuri of Nagasaki Local court.

Writ of summons.

No. 67(wa) 33rd year .

The court orders you to appear here at 11 A. M. May 29th 1900 for the pleading relating to the matter of claim ~~of~~ to establishing a perpetual lease and of delivery of a lot of land between Frederick B. Lake, plaintiff and Nagasaki Ken, defendant.

May 16th 1900
Yoshida Makoto, clerk.
Nagasaki district court.

To Yamaguchi Naomichi Esq.,
Nagasaki Kenzoku.

Seal and signature of receiver, Yamaguchi Nawomichi?
Nagasaki Kenzoku.
Date of service. A. M. May 17th 1905
Place of service. Kencho
May 17th 1900
Tani Seijiro
representative of Iwanaga Tatsu,
shittatsuri of Tokyo Local court.

Writ of summons.

No. 67(wa) 33rd year .

The court orders you to appear at 1 P. M. June 21st 1900 for pleading relating to the case of the claim ~~of~~ to establishing a perpetual lease and delivery of a lot of land between Fredsrick B. Lake, plaintiff and Nagasaki Ken, defendant.

June 15th 1900
Yoshida Makoto, clerk.
Nagasaki district court.

To Yamaguchi Nawomichi Esq.,
Nagasaki Kenzoku.

Seal andsignature of receiver. Yamaguchi Nawomichi.
Date of service. 8 A. M. June 16th 1900.
Place of service. Nagasaki Kencho.

June 10th 1900
Takamura Koheiji,
Representative of Iwanaga Tatsu,
Shittatsuri of Nagasaki Local court.

Writ of summons.

No. 679wa) 33rd year .

The court orders Ryoe to appear at 1 P. M. June 21st 1900 for the pleading relating to the case of claim of establishing a perpetual lease and of delivery of of a lot of land between Frederick B. Lake, plaintiff and Nagasaki Ken, defendant.

June 15th 1900
Yoshida Makoto, clerk,
Nagasaki district court.

To Honda Tsuneki Esq., attorney of the plaintiff.
To Maruoka Takiji Esq., attorney of the plaintiff.

Seal and signature of receiver. Honda Tsuneki (seal)
Date of service. 8 A. M. June 16th 1900
Place of service. Motohakatamachi,
Kume 16th 1900
Takamura Koheiji,
Representative of Iwanaga,
shittatsuri of the Nagasaki Local Court.

Writ of service.

I hereby serve upon you.

The application for correcting the statement of object of suit and the fixed declaration, by the shittatsuri of Nagasaki Local Court.

June 23rd 1900

Kume Kisaku, clerk,

Nagasaki district court.

To Yamaguchi Nawomichi Esq.,

Nagasaki Kenzoku.

Seal and signature of receiver. Yamaguchi Nawomichi,
Nagasaki Kenzoku.

Date of service. P. M. June 25th 1900.

Place of service. Nagasaki Ken.

Tokuemon,

Representative of Iwanaga Tatsu,

shittatsuri of Nagasaki Local

Court.

The Nagasaki Appeal Court.

The record of the appealed civil case.

Number of record: No. 262(ne) 33rd year of Meiji(1900).

Name of the case: Claim to establish a perpetual lease and for delivery of land.

The judge in charge: Mr. Hitaka.

The name of clerk: Mr. Kume.

The names of public procurators: Miyakoshi and Hasama.

The name of appellant: Frederick B. Lake.

The names of his attorneys: Honda Tsuneki and Maruoka Takiji.

The name of appellee: Arakawa Yoshitaro.

The names of his attorneys: Ishibashi Tomokichi.

The order of date, 10 A. M. March 3rd, 1901.

The date to present the pleas, Feb. 25th 1901.

The dates for continuing the pleading,--
11. A. M. September 27th 1901.
2. P. M. December 2nd 1901.
1. P. M. January 27th 1902.

The change of ~~Feb. 3rd 1902~~ date: Feb. 3rd 1902.

The result: The main idea, The rejection.

The note to convey the record of suit.

I beg to convey the followingdocuments by your request:-

The record of suit.

The number of the record 67(wa) 1901.

The name of the case.

Claim to establish a perpetual lease and for delivery of land.

August 9th 1900.

Yoshida Makoto, clerk.

The Nagasaki District court.

To the clerk department in the appeal court.

ybb

The contents in the record of No. 262(ne) 1900.

Name of documents.	Page.
The documents for the appeal(or written appeal)	1.
Power of Attorney.	5.
Power of attorney.	6.
Writ of service.	7.
Pleas.	10.
The record of pleading.	12.
The same.	61.
The same.	71.
The record of testimony of witnesses.	74.
The record of pleading.	84.
The record of testimony of witnesses.	87.
(A blank paper is missing).	89.
The application for the service of the written judgement.	91.
The copy of the written judgement.	93.
The writ of service.	98. 99.

Chief judge, Judge. (seal)

The date for pleading, 10 A. M. March, 3rd 1901.

No. 13.

No. of record. No. 262 (ne) 33rd year of Meiji(1900)

August 4th 1900.

The written appeal in the matter of a claim to establish a perpetual lease and for delivery of land.

Honda Tsuneki,

Maruoka Takiji,

the attorneys of the appellant.

The number of suit in the first court was No. 67 (wa) 33rd year of Meiji(1900).

The written judgement was served on 5th of July 1900.

Revenue stamp Ten Yen.	Eight ten yen revenue stamps.
One Yen.	Six one yen revenue stamps.
Fifty cents.	Three fifty sen stamps.
Ten cents.	Ten ten sen stamps.

The written appeal. (Kosojo)

Frederick B. Lake, Appellant. (plaintiff)in the first court)
An American citizen, No. 40 B, Sagarimatsu, Oura, Nagasaki Shi Nagasaki Ken.

Honda Tsuneuki, attorney of the appellant, an advocate, Motohakatamachi, Nagasaki Shi, Nagasaki Ken.

Maruoka Takiji, attorney of the appellant, an advocate, Hikichimachi ,same shi , same Ken.

Hattori Katsuzo, Appellee,(defendant in the first court)
the Governor of Nagasaki Ken .

The case of a claim to establish a perpetual lease and for delivery of land.

The object of the suit.

The sum of twenty two thousand yen(22000) as compensation for the price of lease.

The appellant appeals against the following judgment given by the civil case department of Nagasaki district court on June 20th 1900,

Judgement.

Frederick B. Lake, an American citizen,
No. 40 B Sagarimatsu Oura, Nagasaki Shi, Nagasaki Ken.

Nagasaki Ken, defendant,
~~Yamaguchi Nowomichi, Nagasaki Kenzoku.~~
Yamaguchi Nowomichi, Nagasaki Kenzoku,the legal representative of Nagasaki Ken , relating to the case of a claim to establish a perpetual lease and for delivery of land between the said parties, this district court gives judgment as follows:--

The main idea.

The claim of the plaintiff is rejected. The cost of the suit shall be paid by the plaintiff.

A fixed declaration.

The appellant, being dissatisfied with the whole of the above judgment, appellee that the judgment of the first court be rescinded and that a new judgment shall be given that the appellee must pay twenty two thousand yen in money as compensation for the price of the lease on the lot of land measuring 765 tsubo and used as a ship-building and milling place, formerly called Lot B Kozone machi Nagasaki Shi Nagasaki Ken.

Reason.

In 1886 and 1888, George W. Lake, the predecessor of the appellant

acquired the perpetual lease on the lot measuring 765 tsubo as a ship-building and mill place, formerly called B. Kozonemachi, Nagasaki Shi from the appellee and afterwards possessed it safely; but the appellee took away that land unlawfully from the defendant and returned it to the owner; therefore the defendant claims twenty-two thousand yen, the price of the lease as compensation. The reasons for which the first court had rejected the appliaation of the defendant are unjust, as will be explained in detail in the pleading.

The method of proof.

The evidence is the same as in the first court and it will be used again in this court.

August 4th 1900.

Naruoka Takiji.

Honda Tsuneyuki.

To Hitomi Tsunetami Esq., Judge, the chief of the civil case department in the Nagasaki Appeal court.

Power of attorney.

I hereby appoint Mr. Honda Tsuneki, an advocate, to be my lawful attorney and in my name to do the following matters;--

1. Another party--Hattori Katsuzo,Governor of Nagasaki Kem.
2. The case: The matter of a claim to establish a perpetual lease and for delivery of land .
3. The court: Nagasaki Appeal court.
4. The limit of mandate:-
   Any act in the cuurse of a lawsuit, a compromise, an acceptance rescission, receiving of the thing paid by another, appointment of a substitute,

August 4th 1900

Frederick B. Lake.

Power of attorney.

I hereby appoint Mr. Maruoka Takiji, an advocate to be my lawful attorney to transact the following matters in my behalf:

1. To act in the course of the lawsuit in the second court relating to a claim to eatablish a perpetual lease and

for delivery of land between me and Mr. Hattori Katsuzo, Governor of Nagasaki Ken.

2. Also in my name to cancel the object of the suit, to acknowledge, to make compromise, to withdraw the suit, to receive the object paid by another party, and to appoint a substitute.

August 4th 1900

Frederick B. Lake.

Writ of service.

No. 262(ne) 1900, the civil case department.

I hereby serve upon you a copy of the written judgment by the shittatsuri in Nagasaki local court.

July 4th 1900.

Yoshida Makoto, clerk,

Nagasaki district court.

To Honda Tsuneki Esq., an attorney of plaintiff.

To Maruoka Takiji Esq., an attorney of plaintiff.

seal and signature of the receiver.

Date of service. 11A. M. July 5th 1900.

Place of service.

I did as above mentionsd .

Nishino Tojiro,

Shittatsuri, Nagasaki local court.

Power of attorney.

No. 262(ne) 1900.

I hereby appointed Mr. Ishibashi Tomokichi, an advocate, as my lawful attorney to act in the following matters in my name:

1. Any act to be done by the appellee relating to the civil lawsuit No. 26 (ne) 1900 in the Nagasaki Appeal court.

Feb. 19th 1900.

Arakawa Yoshitaro,

Goverhor of Nagasaki Ken.

No. 400(ne).

The information as to change in appellee

No. 262(ne) 1900.

Hattori Katsuzo, the appellee,

the Governor of Nagasaki Ken.

Mr. Hattori Katsuzo, the appellee of the case, No. 262(ne) 1900 in your court has removed to the post of governor of Hyogo Ken on the 1st of November of last year and I have become his successor, so I hereby inform you that I will appear in the said lawsuit as the appellee.

Feb. 19th 1900.

Arakawa Yoshitaro.

Governor of Nagasaki Ken.

To Hitomi Tsunematsu Esq.,

the president of the Nagasaki Appeal court.

Pleas.

Frederick B. Lake, appellant, an American citizen,

No. 40 B. Sagarimatsu, Oura, Nagasaki Shi.

Honda Tsuneyuki, attorney.

Arakawa Yoshitaro, appellee,

Governor of Nagasaki Ken.

Ishibashi Tomokichi, attorney.

The appeal case of the claim to establish a perpetual lease and for delivery of land.

A fixed declaration.

The appelle applies for a decision that the appeal be rejected.

The reason.

The appellee presents again the same evidence as presented in the first court.

Feb. 27th 1901

Ishiba Tomokichi.

To Hitomi Tsunetami Esq.,

Judge, the chief of the civil case department

in Nagasaki Appeal Court.

The record of pleadings.

Frederick B. Lake, appellant.

Arakawa Yoshitaro, appellee.

Relating to the appeal case of the claim to a establish a perpetual lease and for delivery of land, No. 262(ne) 1900 between the above parties at 10 A. M. March 1901, in the civil case department of Nagasaki appeal court,

Honda Tsuneyuki, the attorney of the appellant,

Maruoka Takiji, the attorney of the appellant.

Ishibashi Tomokichi, the attorney of the appellee,

appeared when this case was called, and

Hitomi Tsunetami, Judge, chief judge,

Kimura Tokinari, judge,

Matsutaira Nobuhide, judge,

Kasuga Sho, judge,

Hitaka Jitsuyo, judge,

Tokunaga Bunji, clerk,

were present with Hasama Shin, a public procurator and in the court opened publicly, they determined as follows:

The attorney of the appellant declared as in the written appeal (kosojo) and explained the relation of the facts as written in the judgement of the first court.

The attorney of the appellee requested that judgement be given to the effect that the appeal be rejected and explained the facts as given in the written judgement of the first court.

The chief judge asked of both attorneys as follows:--

Are the points at issue as follows?

1. Whether the deed of lease in the said case is void or not, if the land rent was not paid up before March 31st, 27th year of Meiji(1897)?
2. Whether the deed of lease is void or not, if the rent was paid after the date mentioned above?

The attorney of the appellant answered as follows:-

The points at issue seemed to be

1. Whether the phrase " in advance " in the said case means

" before the term of a proper year before" or not?

2. Whether the parties tacitly acknowledged or not that the payment before the term of a proper year began was not practiced during a few years?

The chief judge asked each attorney about the points at issue:

(Question) Are they the same as above mentioned?

(Answer) Yes.

The attorney of the appellant said as follows:-

The evidence, A No. 1. A,proves that when Sakamoto Seiji offered the land rent to the appellee, during the period from April 2nd 1894 to August 22nd of the same year at the request of the appellant's predecessor, the appellee, the officer in the Nagasaki Kencho, did not receive it. Exhibit A, No. 2 of A,proves that when the appellant went to the appellee with Smith who had no relation to the suit, to pay the rent in August 25th 1894, or the last time, there was no officer to receive it, so the appellant did not subceed.

Exhibit A, No. 3 proves that the land rent was never paid before the term of proper year began.

Exihibit A, No. 4 A proves that the appellee had issued the notice for payment after the fiscal year had begun.

In short, the Exhibit A No. 3 and No. 4, prove that (1) the words " in advance " in the deeds does not mean " before the term of a proper year begins " ; and (2) though in the deeds there is the words " in advance ", the rent was frequently paid after the term of a proper year began.

Exhibit A, No. 5 proves that Lake went to the appellee to pay the renton April 2nd 1894.

The appellant's attorney applied to call Sakamoto Seiji and Edward Lake as witness to be asked about the offer of the rent on April 2nd 1894.

The appellant's attorney insisted that the appellee urged the appellant to pay the rent before July 31st 1894 and this fact is enough to prove the postponement by the appellee of the date of payment.

The appellant's attorney said as follows:-

He denies all the evidence of A No. 1.

He will acknowledge or deny the evidence A, No. 2 A, later.

He acknowledgessthe fact that the rent had been received after the tem term of year began shown exhibit A, No. 3 but he denies the deductions drawn from that fact.

He acknowledges the document presehted as exhibit A. M. 4, but denies the deductions drawn therefrom.

He acknowledges the document presented as exhibit A No. 5, but denies the deductions drawn therefrom.

The same attorney declared that he would reject the exhibits from B No. 1 to B No. 3 and from B No. 5 to B No. 8.

The appellant's attorney declared that he would use the exhibit B No. 1 for the interest of the appellant and he will not consent to claim that exhibit rejected; but he has had no objection to rejecting other exhibits B No. 2 No. 3 and No. 5.

The appellee's attorney declared that the document presented as the exhibit B No. 4 could not be transferrred without the consent of the appellee, therefore the payment of rent by one who has no interest whatever in the lease was void and the appellant had the right to take away thesaid land.

The evidence, B No. 9, proves that when the appellant's predecessor left on the 14th of April 1894, he had appointed no manager.

The appellant's attorney declared he will acknowledge the document of B No. 9 but will deny the deduction drawn therefrom.

The appellee's attorney declared that the appellee granted a postponement for payment to the American consul in July 31st 1894 but not to the appellant.

The appellant's attorney :

the consul represented the appellant as to the notice of payment, therefore the postponement mentioned above was effective also as to the appellant.

Judge Matsutaira, ass ociate judge, asked the appellant's attorney as follows:

(Question) Will you prove that Edward Lake offered the lamd rent m

on 2nd of April 1894 ? 7

(Answer) Yes.

The chief judge declared the decision of the court to receive evidence by calling Sakamoto Seiji, according to the application of the appellant's attorney and ordered him present the power of attorney for paying the rent in behalf of the appellant and ordered the appellee to present the original document of exhibit B No. 4.

The court then adjourned.

The clerk made his record immediately.

Tokunaga Bunji, clerk
the civil case department of the
Nagasaki appeal court.
Hitomi Tsunetami, Judge,
chief judge.

The application for examining the evidence.

No. 262 (ne) 1900

Sakamoto Seiji,
c/o Sakamoto Zenjiro, Sotouramachi,
Nagasaki Shi.

Relating to the said case, please ask the person above mentioned asbwitness about the following matters:

The fact that the witness attented many times after April, 1894, to pay the rent of the said land with Edward Lake, but was refused; and other facts relating to the above.

March 4th 1901

Honda Tsuneyuki, the appellant's attorney
Maruoka Takiji, the appellant's attorney.

To Hitomi Tsunetami Esq. Judge,
The chief of the civil case department ,
Nagasaki Appeal court.

Nagasaki appeal.

A diary; Civil case, No. 1261 No. 262(ne) 33rd year.

Number of Record; No.

The copy of exhibit B No. 4,

United States Consulate,

Nagasaki, Japan,

September 10, 1894.

C. Ohmori Esq.,

Governor of Nagasaki Ken,

Kencho.

Sir:

I have the honor to transmit Consular copy of title deeds for Lot 40 and 41 Sagarimatsu and shipping place A formerly leased by George W. Lake and now declared by me null and void and so entered upon the transfer book.

The originals are, I presume, in the possession of George B. Lake and can not be obtained by me.

I am, Sir,

Your obedient servant,

W. H. Abercrombie,

U. S. Consul.

March 22nd 1901

Ishibashi Tomokichi.

To Hitomi Tsunetami Esq.,
Judge in the civil case department,
Nagasaki appeal court.

Feb. 5 sens No. 11001, 33rd year.

No. 262(ne) 33rd year in the civil case department.

The writ of summons.

To Maruoka Takiji Esq.,

The court requires that you shall appear at 10 A. M. March 3rd ,1901 to plead in the appeal case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Hattori Katsuzo, the appellee.

August 7th 1900.

Ichisone Tetsuji.
Clerk in Nagasaki appeal court.

Seal and signature of receiver: Maruoka Takiji (seal)

Date of service: 5 P. M. August 8th 1900.

Place of service: Hikijimachi No. 331.

Done as above as

Aug. 8th, 1900.

Takamura Koheiji,

Representative of Ko Hyonosuke,

A shittatsuri, Nagasaki

Local Court.

The writ of summons. No. 262(ne) 1900.

Honda Tsuneyuki Esq.,

The court orders that you shall appear here at 10 A. M. March 3rd, 1901, to plead in the appeal court case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant, and Hattori M Katsuzo, the appellee.

August 7th 1900.
Ichinose Tetsuji,
clerk in Nagasaki Appeal Court.

Seal and signature of redeiver: Honda Tsuneki (seal)
Date of service: 4 P. M. August 8th L900.
Place of service: No. 49, Moto Hakatamachi.
Done as above.

August 8th 1900.
Takamura Koheita.
Representative of Ko Hyonosuke,
Shittatsuri, Nagasaki Local Court.

No. 262(ne) 1900.

The writ of service.

Hattori Katsuzo Esq.,
Governor of Nagasaki Ken.

The court serves y upon you the written appeal of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Hattori Katsuzo, the appellee and it requires that you shall present the pleas before Feb. 25th 1901 and shall appear here at 10 A. M. 3rd March 1901.

August 7th 1900.
The Nagasaki appeal court.

Seal and signature of receiver: Yamaguchi Nawomichi,
Nagasaki Kenzoku.
Date of service: 10 A. M. 8th Aug. 1900.
Place of service: Nagasaki Kencho.
The reason why the document has been served upon an employe:
I was impossible to meet the proper person, therefore this document has been delivered to Yamaguchi Nawomichi, his representative.
Done as above.

August 8th 1900.
Noda Hatsutaro,
representative of Ko Hyonosuke.
The civil case department
No. 260 (ne) 1900.

The writ of summons.

Honda Tsuneki, advocate Esq.,

Maruoka Takiji, advocate esq.,

I hereby serve upon you the decision annexed relating to the claim to establish a perpetual lease and for delivery of land between B. Lake, the appellant and Hattori Katsuzo, the appellee, and the court requires that you shall appear here at 10 A. M. 4th, March, 1901, for the pleading.

Sept. 13th, 1900.
Ichinose Tetsuji,
a clerk in the Nagasaki appeal court.

Seal and signature of receiver: Honda Tsuneyuki.
Date of service: 1 P. M. 14th, Sept. 1900..
Place of service: Moto Hakatamachi No. 40.
Done as above,

Sept. 14th, 1900.
Takamura Koheita.
Representative of Ko Hyonosuke,
a shittatsuri of the Nagasaki
Local Court.

The civil case department. No. 262 (ne) 1900.

The writ of summons.

Hattori Katsuzo Esq.,

I hereby serve upon you the decision annexed relating to the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Hattori Katsuzo, the appellee and the court requires that you shall appear here at 10 A. M. 4th, March, 1901, for the pleading.

Sept. 13th 1900.

Ichinose Tetsuji, clerk.

Seal and signature of receiver: Kitashima Totaro (seal)
a Kenzoku, second department,
Nagasaki Ken.
Date of service: 10 A. M. Sept. 14th 1900.
Place of service: Nagasaki Ken
The reason why this document has been served upon the representative:
The proper person was absent, so it has been delivered to his representative.
Done as above,
Sept. 14th, 1900.
Ito Tetsuma,
Represenattive of Ko Hyonosuke,
a Shittatsuri Nagasaki Local Court.

Decision.

The date for the pleading at 10 A. M. 3rd, March 1901 in the case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant, and Hattori Katsuzo, governor of Nagasaki Ken; the appellee, is changed by authority.

Sept. 12th, 1900.

Hitomi Tsunetami, Judge, chief judge.
Matsutaira Nobushige, Judge.
Kasuga Sho, Judge.
Hitaka Jetsuyo, Judge.
Takata Kuwokichi, Judge.

Therefore I hereby order that the hearing of pleadings be at 10 A. M. 4th March 1901, the new date.

Sept. 12th 1900.

Hitomi Tsunetami, Judge, chief judge.

Application for reading the record.

I hereby apply to read over the record of No. 262 (ne) 1900 in your court.

Feb. 23rd 1901.
Ishibashi Tomokichi.
The attorney of the appellee.

To the clerk department
Nagasaki Appeal Court.

Civil case department No. 262(ne) 1900.
The writ of service.

I hereby serve upon you by the shittatsuri of Nagasaki Local

Court. application to continue
~~The information for successing~~ the lawsuit.

Feb. 21st 1901.
Ichinose Tetsuji,
a clerk of Nagasaki appeal court.

To Honda Tsuneki, advocate Esq.,
To Maruoka Takiji, advocate Esq.,

Seal and signature of receiver: Honda Tsuneki (seal)
Date of service: Feb. 24th 1901.
Place of service: No. 49 Moto Hakatamachi.
Done as above .

Kusaka Kenji,
Representative of Iwanaga Tatsu,
Shittatsuri, Nagasaki Local Court.

Application for reading the record.

I hereby apply to read over the record of No. 262 (ne) 1900.

March 1st 1901.

Honda Tsuneyuki, advocate.

To the clerk department.

Decision.

I hereby appoint 11 A. M. 27th, Sept. 1901 as the date for continuing the pleading in the case of a claim to establish a perpetual lease and for delivery of land, No. 262 (ne) 1900 between Frederick B. Lake and Hattori Katsuzo.

March 7th 1901.

Hitomi Tsunetami, Judge,
chief judge in the civil case department in Nagasaki appeal court.

The civil case department No. 262 (ne) 1900.

The writ of summons for witness.

The court requires your testimony concernimg the facts mentioned in the special paper annexed according to the decision of 4th, March 1901, relating to the appeal case of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Hattori Katsuzo, the appellee, therefore

you will appear in the appeal court at 11 A. M. 27th, Sept. 1904. If you do not appear, without a proper reason, you will be ordered to pay expenses caused by your absence and be fined not more than twenty Yen according to article 294 of the ~~civil~~ law of civil procedure.

March 9th 1904.

The Nagasaki appeal court.

To Sakamoto Seiji Esq.,
c/o Sakamoto Zenjiro, Sotouracho,
Nagasaki Shi.

Seal and signature: Sakamoto Kisa (seal)
(written by representative)
Date of service: 6 P. M. 9th March 1901.
Place of service: No. 8 Sotourachio.
The reason for delidering to a relation:
The proper person being, absent, I delivered the summons to his mother live in the same house.
Done as above.
March 9th 1901.
Ishimaru Chiyokichi,
Representative of Iwanaga Tasu,
shittatsuri of Nagasaki Local Court.

The civil case department No. 262 (ne) 1900.

The writ of summons.

The court having served upon you the special decision annexed relating to the appeal case in a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake and Arakawa Yoshitaro, you are notified to appear here at 11A. M. 27th, Sept. 1901 for the pleading.

March 9th 1901.

Tokunaga Bunji, a clerk in the
Nagasaki appeal court.

To Ishibashi Tomokichi, advocate Esq.

Seal and signature: Ishibashi Tomokichi.
Date of service: 12 A. M. 9th March 1901.
Place of service: No. 41 Mayacho.
Done as above.
March 9th 1901.
Ishimaru Chiyokichi.
Representative of Iwanaga Tatsu,
a shittatsuri of Nagasaki Local court.

The civil case department No. 262 (ne) 1900.

The writ of summons.

The court having served upon you the special decision annexed relating to the appeal case in a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Arakawa Yoshitaro, the appellee, you are notified to appear here at 11 A. M. 27th, Sept. 1901 for the pleading.

March 8th 1901.
Tokunaga Bunji, a clerk of the
Nagasaki appeal court.

To Honda Tsuneyuki, an advocate Esq.,

Maruoka Takiji, an advocate Esq.,

Seal and signature: Honda Tsuneyuki (seal).
Date of service: 6 P. M. March 1901.
Place of service: No. 49 Moto Hakatamachi.
Done as above,

March 9th 1901.
Ishimaru Chiyokichi,
Representative of Iwanaga Tatsu,
a shittatsuri of Nagasaki Local
Court.

The civil case department No. 262 (ne) 1900.

The writ of service.

I hereby serve upon you by the shittatsuri of Nagasaki Local Court:

The copy of evidence.

March 22nd 1901.
Tokunaga Bunji, a clerk of the
Nagasaki appeal Court.

To Honda Tsuneki , advocate Esq.

Maruoka Takiji, advocate Esq.

Seal and signature of receiver: Honda Tsuneyuki (seal)
Date of service: 1 P. M. 33rd March 1901.
Place of service: No. 49 Moto Hakata machi.
Done as above,

March 23rd 1901.
Kusaka Kenji,
Representative of Iwanaga Tatsu,
shittatsuri of Nagasaki
Local Court.

Application for copy of the records.

No. 262 (ne) 1900.

I hereby apply for copies of the records of pleadings and

examination of witness, which have been made on 27th, Sept. of this year.

October 8th 1901.
Honda Tsuneyuki,
the appellant's attorney.

To the clerk department,
Nagasaki appeal court.

The civil case department No. 262 (ne) 1900.

The writ of service.

I hereby serve upon you by the shittatsuri of the Nagasaki local court:-

The records of pleadings and examination of witness.

October 16th 1901.
Kume Kensaku,
Nagasaki appeal court.

To Honda Tsuneki Esq.

Seal and signature: Honda Tsuneyuki (seal)
Date of service: 5 P. M. 17th October 1901.
Place of service: No. 48 Moto Hakatamachi.
Done as above,

October 19th 1901.
Nakamura Kingo,
representative of Iwanaga Tatsu,
shittatsuri Local court.

Application to call witness.

No. 262 (ne) 1900.

Noguchi Kotaro,
No. 314 Kami Nagasakimura.

I hereby apply to call the above person and to ask him as a witness about the following matters relating to the said case.

Matters of examination:

The fact that the witness, being an officer in the government treasury in Nagasaki Ken, refused to receive the said land rent from the appellant or his representative for the reason that there was no notice for payment; and other related facts.

October 18th 1901.

Maruoka Takiji,
the appellant's attorney.

To Matsumura Itaru Esq., Judge,
Chief judge in the Nagasaki appeal court.

Application to call witness.

No. 262 (ne) 1900.

Relating to the above case, I hereby apply for the examination of witness as follows:

Takahashi Motokichi,
Katsuyama Machi, Nagasaki Shi.
(who was formerly a Zoku in Nagasaki)
(Ken and now a clerk in the Russo-)
(Chinese bank.)

Yamaguchi Nawomichi,
c/o Nagasaki Kencho.
(A Zoku in the same Kencho)

I hereby apply to call the above two persons and to ask them as witnesses about the following matters:

Matters of examination:

1. Did the witnesses know that Sakamoto Seiji, a representative of Edward Lake, came to Nagasaki Kencho to pay the land rent of the lot of Sagarimatsu No. 40, Oura and of two other lots formerly leased by George W. Lake ?
Was it a fact that the witness refused to receive the rents?

2. If so, when was it?
(was it on April 2nd 1894 or in the middle of August)
(of the same year, as the appellant insists.)

Besides these, please ask Yamaguchi Nawomichi the following question:

Whether the letter presented as exhibit B. No. 9 is the true and identical document which the Nagasaki Kencho received from the American consulate?

Sept. 27th 1901.

Ishibashi Tomokichi,
the appellant's attorney.

To Matsumura Itaru Esq., Judge,
the chief of the civil case department
in the Nagasaki appeal Court.

Besides these two persons, I applied orally to call Yoneta, a Zoku, as a witness and the court consented, but he having died I beg to withdraw my application.

Decision.

I hereby assign, 2 P. M. 2nd December 1901 as the date for continuing the pleading in the case of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Arakawa Yoshitaro, governor of Nagasaki Ken, the appellee.

October 19th 1901.

Matsumura Itaru, Judge,
chief judge in the civil case department
in Nagasaki appeal court.

The civil case department No. (ne) 1900.

The writ of summons for witnesses.

The court requires your testimony concerning the facts mentioned in the special paper annexed according to the decision on 27th Sept. 1901 relating to the appeal case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and the governor of Nagasaki Ken, the appellee.
Therefore you are directed to appear in this appeal,court at 2 P. M. 2nd, December 1901.
If you do not appear without a proper reason, you will be ~~order~~ ordered to pay the expenses caused by your absence and be fined not more than twenty Yen according to article 294 of the law of civil procedure.

October 21st 1901.

The Nagasaki appeal Court.

To Takahashi Motokichi Esq.,
c/o Russo-Chinese bank, Katsuyamacho,
Nagasaki Shi.

Seal and signature of receiver: Takahashi Motokichi.
Date of service: 11 A. M. 22nd, October 1901.
Place of service: No. 1 Katsuyamacho.
Done as above,

October 22nd 1901.

Nakazoe Tokuzaemon,
Representative of Iwanaga Tatsu,
a shittatsuri, Nagasaki Local Court.

The civil case department No. 262 (ne) 1900.

The writ of summons for witness.

The court requires your testimony concerning the facts mentioned in the special paper annexed according to the decision on 27th Sept. 1901 relating to the appeal case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and the governor of Nagasaki Ken, the appellee; therefore you are directed to appear in this appeal court at 2 P. M. 2nd December 1901.

If you do not appear without a proper reason, you will be ordered to pay the expenses caused by your absence and be fined not more than twenty Yen according to article 294 of the law of civil procedure.

October 21st 1901.

The Nagasaki appeal court.

To Noguchi Kotaro Esq.,
No. 340 Kami Nagasaki Mura.

Seal and signature of receiver: Noguchi Matsu
(She having no seal, I)
(ordered her to seal by)
(a finger mark.)

Date of service : 3 P. M. 22nd, October 1901.
Place of service: No. 340 Kami Nagasaki.
The proper person being, absent, I delivered the document to his wife.
Done as above,

October 22nd 1901.
Nakagoe Takuzaemon,
Representive of T. Iwanaga,
a shittatsuri of Nagasaki
Local court.

The civil case department No. 262 (ne) 1900.

The writ of summons for witness.

The court requires your testimony concerning the facts mentioned in the special paper annexed according to the decision on 27th Sept. 1901 relating to the appeal case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and the governor of Nagasaki Ken, the appellee; therefore you are directed to appear here at 2 P. M. 2nd December 1901. ###

If you do not appear without a proper reason, you will be ordered to pay the expenses caused by your absence and be fined not more

than twenty Yen according to article 294 of the law of civil procedure.

October 21st 1901.
The Nagasaki appeal court.

To Yamaguchi Nawomichi Esq.,
c/o Nagasaki Kencho.

Seal and signature of receiver: Yamaguchi Nawomichi.
Date of service: 9 A. M. 22nd, October 1901.
Place of service: Nagasaki Kencho.
Done as above,

October 22nd 1901.
Izaki Katsuzo.
Representative of Iwanaga Tatsu, a shittatsuri of Nagasaki Localcourt.

The civil case department No. 262 (ne) 1900.

The writ of summons.

The court requires you to appaar here at 2 A. M. 2nd December 1901 in connection with the appeal case of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and the governor of Nagasaki Ken, the appellee.

October 21st 1901.
Kumi Kisaku, a clerk in the Nagasaki appeal court.

Seal and signature of receiver: Honda Tsuneyuki.
Date of service: 7.30 A. M. 22nd, October 1901.
Place of service: No. 49 Moto Hakatamachi.
Done as above,

October 22nd 1901.
Izaki Kakuzo.
Representative of T. Iwanaga, Shittatsuri of the Nagasaki Local court.

The civil case department No. 262 (ne) 1900.

The writ of summons .

The court requires you to appear here at 2 P. M. 2nd, December 1901 for the pleading in the appeal case of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and the governor of Nagasaki Ken, the appellee.

October 21st 1901.
Kume Kisaku, clerk in the Nagasaki appeal court.

To Ishibashi Tomokichi Esq.

Seal and signature of receiver: Ishibashi Tomokichi.

Date of service: 7 A. M. 22nd October 1901.
Place of service: No. 41 Magacho.
Done as above,

October 22nd 1901.
Izaki Kakuzo,
Representative of Iwanaga
Tatsu, shittatsuri of the
Nagasaki Local court.

Application for changing the fixed day of pleading.

No. 262 (ne) 1900.

To-day was fixed as the day for pleading in the case of the claim to establish a perpetual lease and for delivery of land; but Maruoka Takiji, appellant's attorney finding it impossible to return here in time for the pleading from his tour, we hereby apply to postpone the day for pleading for ten days.

December 2nd 1901.

Maruoka takiji, an appellant's attorney.

Honda Tomokichi, an appellant's attorney.

To Matsumura Itaru, Judge,
The master of the civil case department
in the Nagasaki appeal court.

We apply for examination of the witness who had been called to-day.

Application for the examination of witness.

Tanaka Kenzo.
A member of the eighteenth Bank,
Joint stock company.

I hereby apply to question the above person as witness about the case No. 262 (ne) 1900.

Matters for examination:

The fact that when Sakamoto Seiji brought to the government treasury in Nagasaki on 2nd April 1894, the amount of money, two-hundred eighty three yen and five sen, as the rent of the lot used as a ship-building place and milling formerly leased to George W. Lake and offered that rent to the witnesses, they refused to receive it because there was no notice for payment.

December 2nd 1901.

Honda Tsuneki, an appellant's attorney

To Matsumura Itaru Esq., Judge,
the chief of the civil case department
in the Nagasaki appeal court.

Decision.

I hereby assign 1 P. M. 27th, Feb.1902 as the date for continuing the pleading in the case, No. 262 (ne) 1900 of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Arakawa Yoshitaro, the governor of Nagasaki Ken, appellee.

December 5th 1901.

Matsumura Itaru, Judge, chief judge
in the civil case department
in the Nagasaki appeal court.

The civil case department No. 262 (ne) 1900.

The writ of summons for witness.

The said court requires your testimony concerning the facts mentioned in a special paper annexed according to the decision on 2nd, December 1901, relating to the appeal case of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Arakawa Yoshitaro, the appellee; therefore you are requested to appear here at 1 P. M. 27th Jan. 1902.

If you do not appear without a proper reason, you will be ordered to pay the expenses caused by your absence and be fined not more than twenty yen according to article 294 of the law of civil procedure.

December 9th 1901.
The Nagasaki appeal court.

To Tanaka Kenzo, Esq.,
a member of the Eighteenth Bank ,joint stock company.

Seal and signature of receiver: Tanaka Kenzo, a member of the Eighteenth Bank,joint stock company.

Date of service: 10 A. M. 10th December 1901.
Place of service: In the Eighteenth Bank.
Done as above,
December 10th 1901.
Nishino Tajiro.
Representative of T. Iwanake,
Shittatsuri in the Nagasaki Local court.

The civil case department No. 262 (ne) 1900.

The writ of summons.

appear here at 1 P.M., 27th January, 1902 for the pleading in the appeal case

The said court requires you to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Arakawa Yoshitaro, the governor of Nagasaki Ken, the appellee.

December 6th 1901.

Kume Kinsaku, a clerk in the Nagasaki appeal court.

To Ishibashi Tomokichi Esq., an advocate.

Seal and signature of receiver: Ishibashi Tomokichi.
Date of service: 4.10 P. M. 7th, December 1901.
Place of service: NO. 41, Mayamachi Nagasaki.
Done as above,

Notsubo Hatsutaro.
Representative of Iwanaga, a shittatsuri of the Nagasaki Local court.

The civil case department No. 262 (ne) 1900.

The writ of bummons.

The said court requires you to appear here at 1 P. M. 27th Jan. 1902 for the pleading in the appeal case of a claim to establish a perpetual lease and for delivery of land between Frederick B. Lake, the appellant and Arakawa Yoshitaro, the appellee.

December 6th 1901.

Kume Kisaku, a clerk in the Nagasaki appeal court.

To Honda Tsuneyuki, an advocate, Esq.
Maruoka Takiji, an advocate, Esq.

Seal and signature of receiver: Honda Tsuneyuki.
Date of service: 9.30 A. M. 7th December 1901.
Place of service: No. 49, Moto Hakatamachi.
Done as above,

Ito Tetsuma, representative of Iwanaga Tatsu, a shittatsuri of the Nagasaki Local court.

Application for a copy of the record of pleading.

I hereby apply to you to give a copy of the record of pleading on 2nd December 1901 in the case of a claim to establish a perpetua lease and for delivering land, No. 262 (ne) 1900.

December 6th 1901
Honda Tsuneyuki, the appellant's attorney.

To the clerk department
in the Nagasaki appeal court.

Receipt.

Receipt.

Received

A copy of the record of pleading on 2nd of this month relating to the case of No. 262 (ne) 1900.

December 15th 1901.

Honda Tsuneyuki, an appellant's attorney.

To the clerk department,
in the Nagasaki appeal court.

No. 262 (ne) 1900. Copy of exhibit.

Evidence No. 10 of B.

The regulation for land in Nagasaki. (seal)

Article 6. the term for payment of rent.

The rent for the following year, due on the land leased in the foreign settlement, must be paid in advance on the 10th of December, Japanese calender, of each year.

Jan. 28th 1902.
Ishibashi Tomokichi,
appellee's attorney.

No. 262 (ne) 1900. Copy of exhibit.

No. 66. for the 27th year. Received by Edward B. Lake, an American citizen.

Nagasaki Ken. Revenue officer in charge:
Minakami Hiromi, a government secretary
in Nagasaki Ken.

Received
Foreign silver money: 67 dollars and 16 cents, as the rent for lot Sagarimatsu, second class, No. 39.

April 2nd 1894.

The government treasury in Nagasaki.

The above is a true copy.

Jan. 27th 1902.

Maruoka Takiji,

an appellant's attorney.

Know all men by these presents, that I George W. Lake of Nagasaki, Japan, have made constituted and appointed, and by these presents do make constitute and appoint Mr. Edward Lake of Nagasaki, Japan my true and lawful attorney, for me and in my name, place and stead to ask, demand, sue for, collect and receive, all such sums of money, debts, rents, dues, accounts, and other demands whatever, which are or shall be due, owing, payable and belonging to me and detained from me in any manner whatever, giving and granting unto my said attorney full power and authority to do and perform all and every act and thing whatever requisite and necessary to be done, as fully to all intents and purposes, as I might or could do if personally present with full power of substitution and revocation, herely ratifying and confirming all that my said attorney or his substitute shall lawfully do or cause to be done, by virtue thereof.

In witness whereof I have hereunto set my hand and seal, the 24th day July in the year one-thousand eight hundred and sixty seven.

Signed and sealed. George W. Lake in the presence of Paul Frank.

Be it know that in the 24th day of July, 1867, before me Julius Stakel, Consul for the United States of America for Kanagawa, Japan, and the dependencies thereof personally appeared George W. Lake to me personally known to be the person described in and who executed the above power of attorney, and who acknowledged to me that he executed the same freely and voluntarily to and for the purposes therein named.

Given under my hand and the seal of this Consulate the day and year in this certificate first above written.

Julius Stakel.

U. S. Consul..

The civil case department No. 262(ne) 1900.

The writ of service.

I hereby serve upon you by the shittatsuri of Nagasaki Local court.

Copy of exhibits.

Feb. 28th 1905

Kume Kisaku, a clerk in the Nagasaki appeal court.

To Honda Tsuneyuki, advocate Esq.
Maruoka Takiji, advocate Esq.

Seal and signature of receiver: Honda Tsuneyuki.
Date of service: 5 P. M. 30th Feb. 1902.
Place of service: Moto Hakatamachi.
Done as above,
Feb. 30th 1902.

Takamura Koheiji.
Representative of Iwanaga Tatsu, a Shittatsuri in the Nagasaki Local court.

The civil case department No. 262 (ne) 1900.

The writ of service.

I hereby serve upon you by the Shittatsuri of the Nagasaki Local court.

Two copies of exhibits.

Feb. 31st 1905.
Kume Kisaku, a clerk in the Nagasaki appeal court.

To Ishibashi Tomokichi, advocate, Esq.

Seal and signature of receiver: Ishibashi Tomokichi.
Date of service: 3.30 P. M. 2nd Feb. 1905.
Place of service: No. 41, Mayamachi.
Done as above,
Feb. 2nd 1905.

Ishimaru Chiyokichi.
Representative of Iwanaga Tatsu, a shittatsuri of Tokyo Local court.

Record of pleading.

Frederick B. Lake, an American citizen, the appellant.

Arakawa Yoshitaro, the governor of Nagasaki Ken, the appellee.

Relating to the appeal case of the claim to establish a perpetual lease and for delivery of land between the said parties, No§

No. 262 (ne) 1900 examined in the civil case department of Nagasaki appeal court at 11 A. M. September 27th 1901.

Honda Tsuneyuki, the appellant's attorney

Ishibashi Tomokichi, the appellee's attorney

appeared and

Matsumura Itaru, Judge, chief judge,

Kimura Tokiyoshi, Judge,

Kimura Tokijiro, Judge,

Hitaka Yetsuzo, Judge,

Koyama Matsukichi, Judge,

Kume Kisaku, clerk,

were present with the public procurator Miyakoshi Shinjiro; the court opened publicly and the following facts were determined by the pleading:

The chief judge,

stated that he would open the proceeding and the members constituting the court having been changed, he would examine afresh.

The appellant's attorney,

declared that he applied for rescision of the entire judgment in the first court and for a new judgment according to the appellant's application; and he explained the facts as mentioned in the written appeal .

The appellee's attorney,

declared that he applied for dismissal of the appeal and he explained the facts mentioned in the first plea.

The said parties,

made the same declaration as mentioned in the record of former pleading concerning the relation of facts as follows:

The appellant's attorney said that

(1) Edward Lake was manager continuously.

(2) The first day of April, as the time for payment, was not kept to strictly between the said parties, though the appellant acknowledged that he offered the rent after the first day of April.

In short, the time for payment had been changed

customarily and the word " maebiro(to pay in advance) in every year" in the contract meant that it is enough if the rent shall be paid during the course of the year.

The appellant's attorney said that,

(1) The word "maebiro" did not mean "during the course of the year", but meant "before the term of a year begins."

(2) Sometimes, the rent had been paid after payment was due, but it was occasioned by the intentional postponement of the appellee anddnot by a change of contract.

(3) The term of a (fiscal) year in the official organization had been changed frequently after the said contract had been made, but the appellee gave notice every time such changes occurred.

(4) A notification is a necessary proceeding to rescind a contract when there is no clear agreement but otherwise not.

The appellant's attorney said

(1) The fact that the appellee had given frequent notices of the change of the term of year can not be acknowledged by the appellant.

(2) It was unlawful for the appellee to confiscate the land without any notification of cancellation of contract as is clear by judicial precedents before the civil code was promulgated.

The chief judge directed to examine the evidence .

The appellant explained his evidence as follows:

Exhibit, A No. 1 is the power of attorney relating to continuous management and it proves that the appellant had appointed a permanent manager.

The evidence, A No. 2 proves that the rent offered to the Koncho had been rejected without any reason, therefore the appellant brought it back.

The evidence A, No. 3 is the receipt for rent and it proves that the time for payment was not kept to strictly as mentioned in the contract.

The evidence, No. 4 of A proves that the notice for payment had been issued after the 1st day of April and also proves the same matter as in evidence, A No. 3.

The evidence,A No. 5 proves that theland rent for the appellant and for his manager, Edward Lake had been offered at the same time.

The new evidence, A No. 6 is a document certified by a public officer and proves that the appellant had appointed a permanent manager.

The appellee admitted and denied as follows:

The evidence A No. 1 is wholly denied.

He admitted the documents presented as exhibits A No. 3 or 2 or 4 but denied the proof deduced. that one person had offered the rent of another person's land, but the proof drawn therefrom.

He denied The new evidence, A No. 6 and also insisted that the appellee did not inform the appellant concerning the appointment of a manager since the twenty seventh year of Meiji.

The appellee presented the following evidence:

The evidence, B No. 1 is the letter written by the Kencho and adressed to the consul and proves that Lake, the predecessor of the appellant, neglected the payment.

The evidence , B No. 2 is the answer of the consul and proves the same point as the evidence, B No. 1.

The evidence B No. 3 proves that the Kencho urged the consul to return the title deeds.

Main Exhibit, B No. 4 proves that the consul had informed about returning the title deeds and another attached exhibit proves that the payment by another person is not admitted, according to the land regulations in Nagasaki of 1860; Edward Lake had no relation to the said land; though a third person came to pay the rent, it was unreasonable to say that there was a valid payment.

The evidence No. 5, No. 6, No. 7, and No. 8 of B had been revoked already.

The evidence, B No. 9 proves that the appellant left without appointing a manager at his second departure; this original

document is a "kobunsho" (document made by a public officer) made by the secretary in the consulate.

The appellant admitted and denied as follows:

The evidence, No. 2, No. 3, and No. 4 of B are documents relating to matters between the governor and the consul, but have no relation to the appellant; therefore he admits the documents but denies their relevancy.

He denies the evidence, B No. 9 absolutely.

Besides these, he explained as follows:

1. The appointment before the twenty seventh year of Meiji 廿七(1894) is still valid.
2. The appellant presents as evidence in his behalf the letter presented in the first court as the evidence, B No. 4, by the appellee, namely the consul's declaration to the Kencho that he had revoked his ordered by the instruction of his government after he had declared the title deeds null and void. From this it may be presumed that the Consul had previously declared title deeds void.

Therefore the appellant insists that the cancellation by the appellee according to the invalid order of the Consul mentioned above was unlawful.

The appellee's attorney said that,

Surely the letter had been presented by me, the appellee, but I can not admit the proof deduced.

The chief judge ordered,

the time being 12 O'clock, the court adjourned.

The chief judge present with the same officers in the same court-room, opened court publicly at 1 P. M. the same day and ordered the pleading to continue. And he ordered the examination of evidence and questioned the witnesses as mentioned in the special records of examination of witness.

The attorneys of the appellant and of the appellee explained the evidence in the documents presented and applied ~~to~~ to question ~~to~~ the witness 以 about the facts mentioned in the documents.

The appellant's attorney said

the witness 以 called by the application of the appellee's ~~a~~

attorney are the Kenzokus(officers called Zokwan in the Kencho) and as they correspond to employes provided in the law of civil procedure; therefore I hereby apply to the court to declare them unacceptable, [redacted]

The chief judge said as follows:

The examination of evidence applied for by the appellant and appellee is permitted and the witnesses are to be questioned about the facts mentioned in the documents.

The application of the appellant to disallow certain witnesses was rejected. And chief judge stated that afterwards he will fix the date for continuing the pleading and ordered the court adjourned.

September 27th 1901.

Kume Kisaku, a clerk in the Nagasaki appeal court.

Judge Matsumura Itaru, chief judge.

Testimony.

No. 262(ne) 1900.

Relating to the case of the claim to establish a perpetual lease and for delivery of land, No. 262(ne) 1900, between Frederick B. Lake, the appellant, the judge ordered Sakamoto Seiji to be presented as a witness and when the judge questioned him apart from other witnesses he answered as follows:

1. The name: Sakamoto Seiji.
2. The age: Twenty four years.
3. The status: Heimin(commoner).
4. Business: No business.
5. The domicil: No. 8, Sotouramachi, Nagasaki Shi.
6. He has no relation as a relative, an employee, one living together, or a guardian, etc, to either one of the parties.
7. He has no direct interest in this law-suit.

The judge informed him that he was being questioned as a witness and ordered him to take the oath and instructed him that if he testified falsely he would be punished.

The statement of the witness in reply to the questions presented was as follows:

1. I know Edward Lake, an American citizen; and I received an amount of money from him during 1894(Meiji27th) and offered it to the Kencho as the land rent of W. Lake.

2. I went twice to the Kencho and once to the government treasury, but I do not remember the date.

3. At that time, I was an employein his house. I remember it was about April 1894, but I am not certain.

4. I do not remember now, why the Kencho refused to receive it. First I went to the Kencho and one day after, I went to the government treasury.

5. The government treasury did not receive it for the reason that ~~there was~~ no notice for payment had been sent.

6. At that time, I took the amount of money about three hundred yen in cash.

7. The money, about three hundred yen was for the lot involved in this suit and the rent for Edward Lake was paid perhaps by a clerk.

Then the chief judge showed evidence A No. 1.

1. I wrote the document, exhibit, A No. 1. I wrote the certificate on August 22nd, 1894(meiji 27), namely on the day on which I went the second time. The day on which I went at first was different from the above date.

2. At that time, the officer who managed the land-book was called Yamaguchi Torazo or Yamaguchi Torataro, but I can not now tell from this original document and I do not remember.

The chief judge stated that the examination was finished.

The above record was read over and the witness and the parties declared that it was correct.

Sep. 27th 1901

Kume Kisaku, a clerk in the Nagasaki appeal court.

JudgeMatsumura Itaru,
chief judge.

Oath of Witness.

I hereby swear to speak the truth conscientiously the whole truth and nothing but the ~~truth~~ truth.

September 27th, 1901.

Sakamoto Shozo.

Record of pleadings.

Frederick B. Lake, the appellant.

Arakawa Yoshitaro, the legal representative of the appellee, the governor of Nagasaki Ken.

Relating

to the appeal case of the claim to establish a perpetual lease and for delivery of land between tha said parties, No. 262 (ne) 1900, examined in the civil case department of Nagasaki appeal court at 2 P. M. 2nd December 1901,

Honda Tsuneyuki, the appellant's attorney

Ishibashi Tomokichi, the appellee's attorney

appeared and

Matsumura Itaru, Judge, chief judge,

Matsutaira Nobushige, judge,

Katsuura Tokujiro, judge,

Hikata Yetsuzo, judge,

Koyama Matsukichi, judge,

Kume Kisaku, clerk,

present in the court room, opened publicly, and the following facts were established by the pleading:

The chief judge stated that he would begin the pleading and the members consttuting the court having been changed he would begin the examination afresh.

The appellant's attorney declared as set ~~forth~~ forth in the written appeal and explained the facts mentioned in the written judgment of the first court.

The appellee's attorney declared that he applies that a judgment dismissing the appeal shall be given and explained the facts

mentioned in the written judgement in the first court.
The chief judge stated that he would examine the evidence and questioned the witness as mentioned in the special record of testimony.
The parties applied to postpone the pleading to examine the facts to be proved relating to the said case, and the appellant's attorney applied to call a witness, presenting the written application for that purpose and explained about the facts to be establish -ed by the said witness and the plan of argument.
The chief judge granted the application to postpone the pleading and to examine the evidence and decided to call the said witness and to ask regarding the facts mentioned in the said document and ~~informed he shall~~ stated that he would announce the date to continue the pleading and ordered the court adjourned .
The above record was read over and the parties accepted it.

December 2nd 1901.

Kume Kisaku, a clerk
in the civil case department
in Nagasaki appeal court.
Matsumura Itaru, Judge, chief judge.

Record of testimony.

No. (ne) 1900.
Relating to the case of the claim to establish a perpetual lease and for delivery of land, No. 262(ne) 1900, between Frederick B. Lake, the appellant and the governor of Nagasaki Ken, the appellee, the chief judge ~~and~~ ordered Noguchi Kotaro, presented as witness, to enter to the court room.
In reply to questions put to him apart from the other witnesses, he answered as follows:

1. The name;	Noguchi Kotaro.
2. Tha age:	Thirty seven years.
3. The status:	Shizoku.
4. The business:	A member of the Eighteenth Bank, Joint-Stockcompany.
5. Domicil:	Kami Nagasaki Mura, Nishi Sonokigun Nagasaki Ken.

6. He has no relation with the parties as a relative, employe, one living together, or guardianetc.

7. He has no direct interest in this lawsuit.

The chief judge informed him that he would be questioned as a witness and ordered him to swear and instructed him that if he testified falsely he would be punished.

The statement of the witness in reply to the questions asked is as follows:

You ask if when I was managing the business of the treasury office in the Eighteenth Bank, joint stock company, some person came to the bank to pay the land rent for Frederick about April of 1894(Meiji 27th) and I refused to receive it for the reason that a notice for payment had not been sent; but I do not remember about it now.

(Then the chief judge showed the evidence A No. 5)

There is no doubt that this document was made by me and it was sealed by me; so it seems to me that the rent for W. Lake had already been paid. But I do not remember that I managed about the payment of Frederick Lake's rent. At that time, about the 1st or 2nd of April, many persons used to come to pay their rents, so it is hard to remember exactly. The governor of the Ken gave the order as to the time for payment for each year, so I do not remember what the dates were.

The chief judge stated that the examination was finished. The above record was read over and the witness and parties accepted it.

December 2nd 1901.

Kume Kisaku, clerkin the civil case department in the Nagasaki appeal court.

Record of testimony.

No. 262(ne) 1900.

Relating to the case of the ea claim to establish a perpetual lease and for delivery of land, No. 262(ne) 1900, between Frederick B. Lake, appellant, and the governor of Nagasaki Ken, appellee,

the chief judge ordered Takahashi Motokichi to be summoned as a witness, and when the said judge questioned him apart from other witness, and he answered as follows:

1. Name: Takahashi Motokichi.

2. Age: Thirty two years.

3. Status: Heimin(commoner).

4. Buness: Member of Russo-Chinese Bankand former Kenzoku in Nagasaki Ken.

5. Domicile: No. 1, Katsuyama-machi, Nagasaki Shi.

6. He has no relation with the parties as a relative, employe, one living together, or a guardian etc.

7. He has no direct interest on this law-suit.

The chief judge informed him that he would be questioned as witness and ordered him to take the oath, and instructed him that if he testified falsely he would be punished.

The statements of the witness in answer to the question were as follows:

When I was an officer called zoku in Nagasaki Ken, Sakamoto Shoji came there to pay the land rent for W. Lake which was reject-ed; I do not remember the date now, but only rember that Sakamoto came together with Edward Lake. At that time, I was an interpreter; the reason of its rejection was that Nagasaki Ken had decided to take over the said lot of land, therefore the rent could not be received. It was during Meiji 27th year (1894). Generally the time for payment was April, and ~~though~~ though I do not remember certainly, it was May or June; at any rate after April. While I was in charge of the matter the said two persons came only once to make payment.

The chief judge stated that the examination was finished. The above record was read over and the witness and the parties accepted it.

December 2nd 1901.

Kume Kisaku, clerk in the civil case department in Nagasaki court.

Matsumura Itaru, judge, the chief judge.

The record of testimony.

No. 262(ne) 1900.

Relating to the case of the claim to establish a perpetual lease and for delivery of land, No. 262(ne) 1900, between Frederick B. Lake, appellant and the governor of Nagasaki Ken, appellee, the chief judge ordered Yamaguchi Nawomichi, presented as a witness, to be summoned, the said judge questioned him apart from other witness, and he answered as follows:

1. Name: Yamaguchi Nawomichi.
2. Age: Forty five yaers.
3. Status: Shizoku.
4. Buness: A Zoku in Nagasaki Ken.
5. Domicile:
6. He has no relation with the parties as a relative, employe, one living together or guardian.
7. He has no direct interest in this law-suit.

The chief judge informed him that he would be questioned and ordered him to take oath and instructed him that if he testified falsely he would be punished.

The statements of the witness in answer to questions were as follows:

I am managing in charge of the business relating to foreigners, and I remember that Sakamoto Shoji came once to the Kencho to make payment which was rejected.. I remember it was about the middle of August 1894(Meiji 27th). The reason of the refusal was that the governor of the Ken had been informed about the declaration of cancellation of lease by the American consul, therefore he (the governor) had no right to receive the rent;

(Then the chief judge showed the evidence A No. 9)

This letter is the document which the governor of Nagasaki Ken had received from the American consul, and any one can see through this paper the water mark and I know surely this is the paper used generally by the American consulate. When Sakamoto came about the middle of August, he was accompanied by a foreigner, and I suppose the foreigner was probably Geo. W. Lake. The rejection of payment was at that time only; at another time,

during August in the same year, cash money was brought, but I do not remember that date. He also came two or three times before the American consul's declaration of cancellation. I believe that the evidence, B No. 9 is the document received from the American consul, not only by my recognition of the paper, but by the matter therein contained and though this paper was managed by myself, this paper was not bound together with documents in same relation, and this bound document was in charge of Mr. _____ , an officer called a Zoku; and when he was absent I sometimes took charge and was quite familiar with the business.

The chief judge stated that the examination was finished. The above record was read over before the parties and witness and they accepted it.

December 2nd 1901.

Kume Kisaku, clerk in the civil case department in the Nagasaki appeal court.
Matsumura Itaru, Judge, chief judge.

Affidavit.

I hereby swear to speak the truth conscientiously, the whole truth and nothing but the truth,

Day month 1901.

Yamaguchi Nawomichi,
Zoku in Nagasaki Ken.

Affidavit.

I hereby swear to speak the truth by my conscience and not to be secretive or not to tell in addition about any matter.

Day, month, 1901.
Takahashi Tomokichi.

Affidavit.

I hereby swear to speak the truth by my conscience and not to be secretive or not to tell in addition about any matter.

Day, month, 1901.

Noguchi Kotaro.

The record of pleading .

Frederick B. Lake, the appellant.

Arakawa Yoshitaro, the governor of Nagasaki Ken, the appellee.

Relating to the appeal case of the claim to establish a perpetual lease and for delivery of ~~a~~ land, No. 262 (ne) 1900, between the said parties, examined in the civil case department of the Nagasaki appeal court at 1 P. M. January 27th 1902.

Honda Tsuneyuki, the appellant's attorney,

Maruoka Takiji, ditto.

Ishibashi Tomokichi, the appellee's attorney,

appeared and

Judge Matsumura Itaru, chief judge,

Matsutaira Nobushige, judge,

Katsura Takujiro, judge,

Hitaka Yetsuzo, judge,

Koyama Matsukichi, judge,

Kume Kisaku, clerk,

were present in the court room opened publicly and the following facts were determined by the pleading.

The chief judge ordered that the pleading be continued.

The appellant and the appellee made their declarations and e explained the facts as mentioned in the record of pleading of December 2nd 1901 and stated about the method of proof, the facts to be proved and admission or denial of evidence as mentioned in the record of pleading of September 27th 1901 and explained further as follows:

The appellant stated about the proof established ~~A. No. 1 evidence,~~

by exhibit A No. I. The evidence , A No. 1 proves that though the appellant brought and offered money to the Nagasaki Kencho for the payment of the rent, yet the Kencho without reason refused to receive it and it also proves that the appellant could not be charged with neglect.

The appellee stated as follows about the proof established by evidence B No. 4.

The evidence B No. 4 proves that the land rent must be paid in advance(maebiro) every year and that it can not be paid by another person and also if any one shall neglect to pay his rent in advance, his lease shall be cancelled.

Besides these, he presented article 4 of the land regulations of Nagasaki as evidence,B. No. 10, and he stated that this evidence proves that the land rent must be paid in advance.

The appellant stated that he would admit the exhibit B No. 10 but would deny the proof deduced; and he stated that by the witnesses of Sakamoto Seiji, Takahashi Motokichi and Yamaguchi Nawomichi, he had proved that he was not responsible for neglect of payment.

Chief judge questioned Tanaka Nw Kenzo, presented as a witness, as mentioned in the special record of testimony.

The chief judge ordered to proceed with the pleading.

The parties complied.

The chief judge ordered the proceedings to be closed and promised to give his decision at 1 P. M. , 3rd of February.

The court adjourned.

The above record had been read over and the parties accepted it.

Jan. 27th 1902.

Kume Kisaku, clerk in the civil case department in Nagasaki appeal court.

Judge Matsumura Itaro

chief judge.

At 1 P. M. 3rd Feb. of the same year, in the same court opened

publicly, the same members were present and the chief judge gave his decision and adjourned the court.

Feb. 3rd 1902.

Kume Kisaku, clerk in the civil case department in the Nagasaki appeal court.

Matsumura Itaru, Judge, chief judge.

The record of ~~pleading~~ Testimony.

No. 262(ne) 1900.

Relating to the appeal case of a claim to establish a perpetual lease and for delivery of a lot of land, No 262(ne) 1900, between Frederick B. Lake the appellant and the governor of Nagasaki Ken the appellee, the chief judge ordered Tanaka Kenzo to appear as a witness and when the judge questioned ~~to the said person~~ him apart from other witness he answered as follows:

1. Name: Tanaka Kenzo.
2. Age: Thirty two years.
3. Status: Heimin.
4. Business: The member of a bank.
5. Domicile: No. 56 Imacho Nagasaki Shi.
6. He has no relation with the parties as a relation, an employe, one who lives together, a guardian etc.
7. He has no interest in this law-suit.

The chief judge informed him that he would be questioned as a witness and ordered him to take the oath and warned him that if he should testify falsely he would be punished.

The statements of the witness in reply to the questions were as follows:

At present I am doing business in the treasury office in Nagasaki Eighteenth bank. In Meiji 27th(1894) I held the same position. Your question relates to a matter that occurred during 1894 and I do not remember; when there was no notice for payment, we frequently refused money, but I do not remember at all on what day and with what person, we refused to receive payment.

The chief judge stated that he had finished the examination of witness.

The above record had been read over before the parties and they accepted it.

Jan. 27th 1901.

Kumekisaku, clerk in the civil case
dd department in Nagasaki appeal court.

Judge Matsumura Itaru, chief judge.

Affidavit.

I hereby swear to speak the truth by my conscience and not to be secretive or mer not to tell in addition about any matter.

Day, month, 1901.

Tanaka Kenzo.

Application for serving a copy of the written judgement.

No. 262(ne) 1900.

I hereby apply to serve a copy of the written judgement upon each party.

Feb. 5th 1902.

Ishibashi Tomokichi, the appellant's attorney.

To the clerk department
in Nagasaki appeal court.

The Judgment.

No. 262(ne) 1900.

Frederick B. Lake, the appellant,
an American citizen, No. 40 B Sagarimatsu,
Oura, Nagasaki Shi, Nagasaki Ken.

Honda Tsuneki, the appellant's attorney,
advocate.

Maruoka Takiji, the same, advocate.

Arakawa Yoshitaro, the appellee,
the governor of Nagasaki Ken.

Ishibashi Tomokichi, the appellee's attorney,
advocate.

Relating to the appeal case of the claim to establish a perpetual lease and delivery of a lot of land, No. 262(ne) 1900, between the said parties, this court declares as follows:

The main clause.

The appeal of this case is rejected.

The costs of the appeal must be paid by the appellant.

The facts and the reasons.

The appellant requested a decision repealing the ~~d~~ decision of the first court and ordering that the appellee pay to the appellant the sum of twenty two thousand yen as compensation for the value of the lease on the lot of tsubo 765, ship-building and milling lot, formerly called B, Kozonemachi, Nagasaki Shi, Nagasaki Ken; and the appellee requested a decision rejecting the appeal. Relating to the explanations of the parties as to the facts in the case, we hereby quote the decision of the first court.

In the last article of the certificate of the title, exhibit B No. 4, there is a clause that George W. Lake or his heirs, exe executors or assigns must pay in advance(maebiro) every year, thirty seven Mexican dollars for each hundred tsubo as the land rent, and if payment should be neglected this title deed shall become null and void and the buildings on this lot also shall become the property of the Japanese Government and in the last part [redacted] of the article just before the last there is such clause as " the title deeds shall become null and void and the buildings on the said lot shall become &c &c ." By these clauses we can understand that the land rent must be paid

in advance every year, and if it should be negiected, the deeds shall be cancelled.

Moreover, in article 4 of the land regulations of Nagasaki, exhibit B No. 10, it is written that the annual rent on the leased land in the foreign settlement must be paid in advance on the ~~10th~~ 10th of December in every year according to the Japanese calender; and it may be admitted that the time of payment in the exhibit B. No. 4, was fixed according to the provision of the land regulations above mentioned; therefore it is very clear that the phrase " to pay in advance (mae-biro) each year " means "to pay before the term of the year begins."

The appellant insists that the payment in advance of the rent was not kept to strictly between the said parties and that the appellee had even not issued the notice for payment before the term of the year began; and that therefore even though there was a contract to pay in advance, such contract had been vacated tacitly by custom.

But the fact that the payment in advance was not kept to strictly was an act of grace on the part of the appellee. From the fact that the appellee did ~~noy~~ ~~np~~ not issue the notice of payment before the term of the year began, it can be admitted only that the appellee did not enforce strictly the collection of the rent before the term of a year, and we can not decide that the part of the contract, relating to the time for paying the rent had been thereby changed.

We shall examine whether or not the predecessor of the appellant had neglected to pay the rent in advance. Relating to the payment of the rent for the term of the twenty seventh year (1894), on the land leased to the appellant's predecessor, the appellee notified the American consul, as mentioned in the evidenc B. No. 1 that if he did not pay the rent before July 31st 1894, the title deeds would be cancelled and the land and buildings would be taken over by the appellee, according to the deed of lease; and the American consul answered the appellee that he declared the title deeds null and void and he gave the appellee

the authority to sell the building on the said land lot by public auction, as mentioned in the exhibit B. No. 2, from these facts, we can easily conclude that the appellant's predecessor had neglected to pay the land rent .

Also, the appellant insists that though Edward Lake intended to pay the rent for the appellant's predecessor, the appellee refused to receive it, therefore the appellant is not responsible for the neglect of payment; and to prove the fact mentioned above, he presents exhibits A No. 1, No. 2 and No. 5 and quotes the statement of the witness; but such evidence is not sufficient to establish the fact that Edward Lake had offered therent to the appellee in behalf of the appellant's predecessor before July 31st 1894; yet in the last article of the deed of lease, exhibit B. No. 4 there is the clause that George W. Lake and his heirs, executors or assigns must pay the rent; by this clause, the persons who may pay the rent are determined, and it can not be ss supposed that if any one should pay the rent for another, person, his lease would be continued; therefore Edward Lake would not be recognized the heir, executor or assign of the appellant's predecessors, the appellee had no obligation to receive the rent offered by him; therefore the negligence of the appellant's predecessor to pay the rent can not on that account be overlooked.

Moreover, the appellant insisted by the new evidence, A No. 6 that the appellant's predecessor had appointed Edward Lake as manager of his property,; but having compared the new evidence A No. 6, and the evidence, B No. 9 we find that when the appellant's predecessor left the Empire in 1871 (Meiji 4th) he appointed the said person as his manager, but again when he came to Nagasaki, he cancelled the power of attorney and when he left the Empire the second time he refused to appoint a manager; therefore it must be regarded that Edward Lake has no relation whatever to this matter.

Though the appellant rejects the evidence, B No. 9 it is not only a document written by a public officer on the paper usually

used by the American consulate, but it is established to be the authentic document transmitted to the appellee by the American consul, by the testimony of Yamaguchi Nawomichi.

Also appellant insists that the appellee did not issue the notice of payment for the rent ed of 1894 (the term of 27th year). But in exhibit B No. 3, there is a clause stating " please return the notice of payment for the rent for this year which I sent you formerly" ~~the appellee admitted the cancellation of the lease and took over the said lot of land, which he payment for the rent for the year which I sent you formerly~~". From this clause, the fact that the appellee had issued the notice of payment is very clear, and therefore the appellant's contention can not be accepted.

In short, as a matter of legal procedure, the appellant's predecessor having neglected to pay the land rent, the appellee returned to the owner. The claim of the appellant has therefore no reasonable basis.

The above exposition seems to be sufficient to establish the merits of the said case and further explanation being deemed not necessary, we hereby render our decision as given in the main clause.

Feb. 3rd 1902.

Judge Matsumura Itaru,
chief judge in the civil case department
in Nagasaki appeal court.

Matsumura Nobushige, judge.

Katsura Tokujiro, judge.

Hitaka Yetsuzo, judge.

Koyama Matsukichi, judge.

I hereby certify that this is a true copy of the original record.

Feb. 17th 1902.

Kume Kisaku, clerk in the
Nagasaki appeal court.

Writ of summons.

The civil case department No. 262 (ne)1900.

I hereby serve upon you by the shittatsuri of Nagasaki local court:

A certified copy of the written judgment.

Feb. 17th 1902.

Kume Kisaku, clerk in
the Nagasaki appeal court.

To Honda Tsuneki, advocate.

To Maruoka Takiji, advocate.

Seal and signature of receiver: Honda Tsuneki.
Date of service: 7 A. M. 18th Feb. 1905.
Place of service: No. 49 Moto Hakatamachi.

I have duly executed the above order.
FeB. 18th 1905.
Watanabe Sentaro,
representative of Yamashita Genzo,
shittatsuri of Nagasaki local court.

Writ of service.

The civil case department No. 262 (ne) 1900.

I hereby serve upon you by the shittatsuri of Nagasaki local court:

The certified copy of the written document.

Feb. 17th 1902.

Kume Kisaku, clerk in the
Nagasaki appeal court.

To Ishibashi Tomokichi EsQ.

Seal and signature of receiver: Ishibashi Tomokichi.
Date of service: 9.30 A. M. 18th FeB. 1902.
Place of service: No. 41 Mayache.
I have duly executed the above order.
Noda Hatsutaro, representative of
Yamashita Genzo, shittatsuri of Nagasaki
local court.

No. 262(ne) 1900.

The record of law-suits in the first and the second courts.

Number of the case in the first court -No. 67(wa) 1900.

This office hereby returns to your office the above documents annexing the copy of the written judgement.

Feb. 20th 1902.
Clerk department of the
Nagasaki appeal court.

To the clerk department of the Nagasaki district court.
(No. 544 Feb. 2nd 1902)

The application for examining the record.

No. 67(wa) 1900.

No. 267(ne) 1900 in the appeal court.

I hereby apply to examine the record relating to the case of the claim to establish a perpetual lease and for the delivery of a lot of land.

April 1st 1902.

Honda Tsunaki, attorney,
(the plaintiff in first court.)
(the appellant in second court.)

To the clerk department ,
Nagasaki district court.

(I was informed that the appeal court had returned this record)
(to the original court.)

The record of the civil case
appealed to the Supreme court.

No. of the record: No. 242 (wo) 1902.

Claim to establish a perpetual lease and for delivery of land.

Civil case department No. 2 of the Supreme Court.

The name of the parties.

The appellant: Frederick B. Lake.

The appellee: Arakawa Yoshitaro.

The list of the documents in the case, No.242(wo) 1902.

Kind of document.	Page.
Writ of appeal.	
Copy of judgment.	23
Application.	28
Information about the temporary domicile.	31
Application to send the record.	32
Information about sending record.	32
Writ of service.	33
Power of attorney.	34
Application to examine the record.	35
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The record of pleading.	
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Application for serving a copy of judgment.	92

[redacted] April 27th 1902.

The writ of appeal.

(Documents presented for the appeal to the Supreme Court.)

The case of the claim to establish a perpetual lease and for delivery of a land.

The appellant: Frederick B. Lake.

The attorney: Sato Hakuai.

Civil case department No 2
of the Supreme court.
[redacted] April 29th 1902.
No. 292 (wo) 1902.
No. 21113

The name of the first court: Nagasaki district court.

The number of the first court: No. 67 (wo) 1902.

The distance from the same court: 345 Ri 33cho.

The value of ~~this~~ the object in this court: Twenty-two thousand yen.

Stamp: one hundred eighteen yen .

Judged on 3rd Feb.1902.

The date for statement of this case is fixed at 8.30 A.M. 13th, June 1902.

May 2nd 1902.

The Chief judge.
Civil case department No. 2 of the Supreme court.

The date for pleading of this case is fixed at 8.30 A. M. 10th October 1902.

June 13th 1902.

The chief judge, Civil case department of the Supreme court.

The Judgment.

No. 262 (ne) 1900.

Frederick B. Lake, the appellant.
An American citizen, No40 B. Sagarimatsu, Oura, Nagasaki Shi, Nagasaki Ken

Hoada Tsuneki, the appellant's attorney, advocate.

Maruoka Tsu Takiji, the same, advocate.

Arakawa Yoshitaro, the appellee, the governor of Nagasaki ken.

Ishibashi Tomokichi, the appellee, attorney advocate.

Relating to the appeal case of the claim to establish a perpetual lease and the delivery of a lot of land, No 262 (ne) 1900 between the said parties, this court decides as f follows:

The main clause.

The appeal of this case is rejected.

The costs of appeal must be paid by the appellant.

The facts and reasons.

The appellant requested a decision repealing the decision of the first court and ordering that the appellee pay to the appellant the sum of twenty two thousand yen as compensation for the value of the lease on the lot of tsubo 765, ship-building and milling lot, formerly called B, Kozone-machi, Nagasaki shi, Nagasaki Ken; and the appellee requested a decision rejecting the appeal relating to the exaplanation of the two parties' as to facts in the case, we hereby quote.

The decision of the first court.

In the last article of the certification of title, exhibit B, No 4 there is a clause that George W. Lake or his heirs, or executors or assigns must pay in advance(maibiro) every year, thirty seven Mexican dollars for each hundred tsubo as the la land rent, and if payment should be neglected , this title deed shall become null and void and the buildings on the

lot also shall(become the property of the Japanese goverment) same as above, and in the last part of the article just before the last there is such clause as "this title deed shall become null and void and the buildings on the same lot shall become &c &c ". By this clause we can understand that the land rent must be paid in advance every year, and if it should be neglected, the title deed shall become void and the lease shall be cancelled.

Moreover in article 4 of the land regulations of Nagasaki exhibit B, No 10, it is written that the annual rent on the leased land in the foreign settlement must be paid in advance on 10th December in every year according to the Japanese calender; and it may be admitted that the time of payment in the exhibit B, No 4, was fixed according to the provision of landregulations above mentioned; therefore it is very clear that the phrase" to pay in advance(maibiro) each year" means "to pay before the term of the year begins".

Appellant insists that the payment in advance of the rent was not kept to strictly between the said parties and that the appellee had even not issued the notice for payment before the term of the year began; and that therefore even though there was a contract to pay in advance, such contract had been vacated tacitly by custom.

But the fact that the payment in advance was not kept to strictly was an act grace on the part of the appellee.

From the fact that the appellee did not issue the notice of payment before the term of the year began, it can be admitted only that the appellee did not enforce strictly the collection of the rent before the term of the year; and we can not decide that the part of the contract, relating to the time for paying the rent had been thereby changed.

In the next place we shall examine whether or not the predecessor of the appellant had neglected to pay the rent in advance, relating to the payment of the rent for the term of the twenty seventh year (1894), on the land leased to the

appellant's predecessor ; the appellee notified the American Consul, as mentioned in the evidence of B No 1 that if he did not pay the rent before July 31st 1894, the title deeds would be cancelled and the land and buildings would be taken over by the appellee, according to the deed of lease; and the American Consul answered the appellee that he declared the ~~th~~ title deeds mulland void and he gave the appellee the authority to sell the building on the said lot by public auction, as mentioned in the exhibit B No 2. From these facts, we can easily conclude that the appellant's predecessor had neglected to pay the land rent.

Also, the appellant insists that though Edward Lake intended to pay the rent for the appellant's predecessor, the appellee refused to receive it, therefore the appellant is not responsible for the neglect of payment; and to prove the fact mentioned above, he presents the exhibit of A No 1, No2 and No 5 and quotes the statement of the witnesses; but such eviednce is not sufficient to establish the fact that Edward Lake had offered the ~~t~~ rent to the appellee in behalf of the appellant's predecessor before ~~the~~ July 31st 1894. Even assuming that Edward Lake offered the payment for the rent before July 31st 1894; yet in the last article of the deed of lease,(exhibit B, No 4) there is the clause that "George W. Lake and his heirs, executors, assigns must pay the rent;" by this clause, the persons who may pay the rent are determined, and it can not be supposed that if any one should pay the rent for another person, his lease would be continued; therefore ~~George~~ Edward Lake could not be recognized as the heir, executor or assign of the appellant's predecessor, the appellee has no obligation to receive the rent offered by him; therefore the ~~neglect~~ of the appellant's predecessor to pay the rnet can not on that account be overlooked.

Moreover, the appellant insists by the new evidence A No 6 that the appellant's predecessor had appointed Edward Lake as manager of his property; but having compared the new evidence A No 6 and the evidence B No 3 we find that when the appellan's

predecessor left the Empire in 1871 (Meiji 4th) he appointed the said person as his manager; but again when he came to Nagasaki, he recancelled the power of attorney and when he left the Empire the second time he refused to appoint a manager; therefore it must be regarded that Edward A Lake had no relation whatever to this matter.

Though the appellant rejects the evidence, B, No 9, it is not only a document written by a public officer on the paper usually used by the American Consulate, but is established as an authorized document transmitted to the appellee by the American Consul, by the testimony of Yamaguchi Nawomichi.

Also the appellant insists that the appellee did not issue the notice of payment for the rent of 1894 (of the term of the 27th year). But in the Exhibit B No 3 there is a clause stating "please return the notice of payment for the rent for this year which I sent you formerly". From this clause, the fact that the appellee had issued the notice of payment i is very clear, and therefore the appellant's contention can not be adopted.

In short, as a matter of legal procedure, the appellant's predecessor having neglected to pay the land rent the appellee admitted the cancellation of the lease and took over the said lot of land, which he returned to the reasonable owner. The claim of the appellant has therefore no basis.

The above exposition seems to be sufficient to establish the merits of the said case and further explanation being deemed unnecessary we hereby render our decision as given in the main clause.

Feb. 3rd 1902.

Judge Matsumura Itaru,
Chief in the civil case department
in Nagasaki appeal court.

Matsutaira Nobuhiro, judge.

Katsuura Tokijiro, judge.

Koyama Matsukichi, judge.

I hereby certify that I made this copy according to the original.

Feb. 17th 1902.

Kume Kisaku, clerk in
the Nagasaki appeal court.

Application.

Relating to the appeal case to establish a perpetual lease and for delivery of land , between Frederick B. Lake and Nagasaki Ken, I hereby apply to amend the application for revision ~~in sumi(Japanese ink)~~ as follows before May 2nd:

1. To present the application of revision in sumi(Japanese ink).
2. To present the whole of the judgment appealed from.
3. To include the name of first court and the number of case
4. To include the distance from Nagasaki to here,

April 29th 1902.

Sato Hakuai, arrorney of the appellant.

To the civil department
in the Supreme court.

The copy of receipt.

No 60. for the year 1902.

Received

Two yen(y 2.00) as the money paid in advance for a civil case by Sato Hakuai.

Nose Hidenawo, zoku in the judicial department. (an officer paying or receiving extraordinary cash payments or receipts.)

The above is a true copy of original.

April 29th 1902.

Sato Hakuai.

To the civil ~~case~~ department of
the Supreme court.

Copy of receipt.

No. 68. The year 1902.

Received

Ten yen (y 10.00) as payment for the appeal of a civil case, no. 345 paid by Sato Hakuai.

April 29th 1902.

Nakamura Masafusa.
Secratary in the judicial department, officer in charge of the archives in the Supreme court.

The above is a true copy of original.

Sato Hakuai,

April 29th 1902.

To the civil department of the Supreme court.

Information about the temporary domicile

c/o Takahashi Suteroku, No 1 ,
Ichome Misakicho, Kanda ,
Tokyo.

Relating to the appeal case of claim to establish a perpetual lease and for delivery of land, between Frederick B. Lake and Nagasaki Ken, I hereby inform you that I have fixed the above place as my temporary domicile.

April 29th 1902.

Sato Hakuai,
attorney of the appellant.

To Nanbu Kamewo Esq.,
President of the Supreme Court .

The second civil department of the Supreme court.

April 3rd 1902. No. 2159.

The application to send the record.

Frederick B. Lake, appellant.

The governor of Nagasaki Ken appellee

No. 67 (wa) 1900.

The claim to establish a perpetual lease and for delivery of land, against the judgement of the Nagasaki appeal court relating to the above case, the writ of revision having been presented, I hereby request you to send the record of the first and the second courts relating to this case.

I hereby annex the postal stamps amounting 8to 19 Sens the fee to send by express and to send me notice .

April 30th 1902.

Murai Kotaro, a clerk of the court,
the second department of the supreme court.

To the clerk department ,
Nagasaki district court.

Notice of sending the record.

No 67 (wa) 1900.

I beg to send you the record mentioned above.

May 6th 1902.

Hoshino Ukinaka.
clerk of the court,
Nagasaki district court.

To Murai Kotaro Esq. a clerk of the court,
the second civil department, the Supreme court.

The writ of service.

The second civil department of the supreme court.

The document sent:

A notice as to the time of pleading at 8.30 A. m. 13th June 1902, in the case of the claim to establish a perpetual lease and for delivery of land, No. 242 (wo) 1902, the supreme court.

The person to whom the document has been sent;

Sato Hakuai.

The date of service: 10 A.M. May 6th 1902.

The seal and signature of receiver: Takahashi Suteroku.

The place of service: 3rd chome no 1 Misakicho,Kanda.

The reason why this document was sent to the representative: The proper person being absent, this notice was sent to Takahashi Suteroku at his temporary domicile.

May 6th 1902.

Misa Ikenosuke,
the representative of Samoto Koki, shittatsuri, Tokyo local court.

Power of attorney.

To appeal against the judgement of the Nagasaki appeal court relating to the claim to establish a perpetual lease and for delivery of land, between Nagasaki Ken and I, No 262.(me) 1900, in the above court, I hereby appoint Sato Hakuai Esq., as advocate residing at no. 40, Ichome, Honcho, Yokohama as my lawful attorney to act in all things in my behalf in connection with this lawsuit, to appoint a substitute if it be necessary.

April 1902.

Frederick B. Lake, an American citizen.
No 40 B Sagarimatsu, Oura, Nagasaki.

Application for seeing the record.

I hereby apply to see the record of the appeal case of the claim to establish a perpetual lease and for delivery of land between Frederick B. Lake and Arakawa Yoshitaro, the governor of Nagasaki Ken. No. 242(wo) 1902.

June 3rd 1903.

Sato Hakuai,
the appellant's attorney.

To the second civil department
in the supreme court.

No. 242(wo) 1902.

Frederick B. Lake, plaintiff, appellant.

Nagasaki Ken Defendant.

Nagasaki Ken zoku representative of Nagasaki Ken.

The judgment in the first court.

The Main Clause.

The claim of the plaintiff is rejected. The cost of the suit shall be paid by the plaintiff.

The facts.

The main idea of the plaintiff's statement is as follows:

In 1886 and 1888, George W. Lake, the predecessor of the plaintiff, acquired a perpetual lease from the defendant of the lots of land amounting to 765 tsubo, known as the ship-building and milling lot B Kozonemachi, Nagasaki Ken, of which he afterwards held undisputed possession. In the 27th year of Meiji(1894), the defendant refused to receive the land rent which Edward Lake brought to pay on behalf of his predecessor, deprived him of the land and returned it to the former owner, therefore it is claimed that the defendant shall pay to the plaintiff Yen 22000(twenty two thousand yen) as the value of the perpetual lease.

The main idea of the ~~defendant~~ plea of the defendant is as follows:

The defendant gave to the predecessor of the plaintiff a perpetual lease on the lot amouting to 765 tsubo, known as the shipbuilding and milling lot B Kozonemachi, according to the regulations relating to the foreign settlement and stipulated that the rent must be paid in advance, otherwise the perpetual lease should become void.

On the 14th of April of the 27th year of Meiji(1894), the predecessor of the plaintiffhad been prohibited from living in Japan according to article 7 of the ~~agreement~~ treaty between Japan and the United States of America and although the said predecessor of the plaintiff left for his country, he did not appoint any manager for the lot and did not even pay the land rent for the period between the 31st March of the following year;.

Thereupon the defendant ~~had~~ communicated the above fact to the consul of the United States of America who declared that the title deed was null and void . Therefore the defendant took back the lot of land in question and returned it to the owner. Thus the plaintiff has no ground for his claim.

The two parties are not at issue as to ~~against~~ the following points, viz. the fact that the predecessor of the plaintiff had acquired the lease as shown by exhibit No 4 B 4 according to the regulations relating to the lease of land in the foreign settlement; the fact that the said predecessor did not pay the land rent for the period of 27th year of Meiji; and the fact that the declaration as to the mullification of the title deeds by the American Consulm had been duly notified . But the plaintiff insists that though Edward Lake tried to pay the land rent on behalf of the plaintiff, the government treasury refused to receive it on the ground that the notice for paying tne rent had not been sent out; and that afterwards, although he went several times to the Kencho to pay the rent he was always refused. The plaintiff also insists that there was no obligation to pay the rent in advance and that the failure to pay it within the set time, as it

was practiced for many years, could not be made the ground of cancelling the lease since it had been the practice for many years. Besides these, the declarations and the pleas of the parties relating to the evidence are given in the following reason.

Record.

On 13th June 1902, the following officers personally appeared and publicly opened court in the second civil department of the supreme court:

Terashima Choku, judge, chief judge,

Nishikawa Tetsujiro, judge,

Imamura Nobuyuki, judge,

Sekizawa Seiwon, judge,

Nassho Kozo, ~~judge~~, clerk of the court.

Relating to the appeal case of the claim to establish a perpetual lease and for delivery of land, No 242(wo) 1902, between Frederick B. Lake, appellant and Nagasaki Ken, appellee,

~~Sakamoto~~ Sato Hakuai, an advocate, the appellant's attorney appeared and he made a statement concerning his claim according to the writ of revision and afterwards explained in detail.

The above record was seen by the appellant's attorney and he accepted its genuineness.

The chief judge stated that he would give his decision afterwards.

Nassho Kozo, a clerk of the court.

Terashima Choku, judge, chief judge.

Information about the date of pleading.

June 17th 1902. No. 3844.

Frederick B. Lake, the appellant,

The governor of Nagasaki Ken, the appelle

In the matter of the case of the claim to establish a perpetual lease and for delivery of land, No. 242(wo) 1902, between the above mentioned parties, I beg to inform your office that the pleading will begin in the court room No. 2 of the second civil department in this court at 8.30 A.m. 10th October and I beg to send you the report and record.

When your office has finished reading the record please return it quickly.

June 13th 1902.

Murai Kotaro, the clerk of the court
The second civil department in the Supreme.

To the public procurator's office
in the supreme court.

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Writ of service.

The second civil department of the supreme court.

The document sent.

The notice of the time of pleading at 8.30 A.m. 10th October 1902, relating to the case of the claim to establish a perpetual lease and for delivery of land, No. 242 (wo) 1902 in the supreme court.

The person to whom sent: Sato Hakuai.
The date of service: 10 A.m. June 17th 1902.
The seal and signature of receiver: Takahashi Suteroku.
The place of service: 3rd chome No 1, Nishikicho, Kanda.
The reason this document was sent to the representative:
The proper person being absent, this notice was sent to Takahashi Suteroku at his temporary domicile.

June 17th 1902.

Asakura Jiro,
the representative of Suzuki Koki,
shittatsuri in Tokyo local court.

The writ of service, by post .

The second civil department of the supreme court .

June 23rd 1903.

No. 242(wo) 1902. No. 3185.

A sealed letter.

The notice of the time of pleading at 8.30 A.m. 10th October, 1902 and the writ of revision dated 29th April 1902.

Issued by Murai, a clerk of the court in the second civil department of the supreme court.

Addressed to the Arakawa Yoshitaro,

The governor of Nagasaki Ken.

1. Ekai Tomisaburo, the representave ,
   An employee who is on duty.
2.
3.
4.
5. Proper person being absent, the above was delivered to Ekami Tomisaburo, an employee.

Date of service: 6 P.m. June 16th 1902.

The place of service: Nagasaki Ken.

Nagasaki Post Office.

June 15th 1902.

Fujitsuka Kazuhei,postman.

Power of attorney.

I hereby appoint Mr. Ishibashi Tomokichi, an advocate as my lawful attorney and give him the following authority.

To act in all things in my behalf in connection with the lawsuit as appellee relating to the civil appeal case of No. 242 (wo) 1902 in the supreme court.

July 14th 1903.

Arakawa Yoshitaro,

The governor of Nagasaki Ken.

Power of attorney.

I hereby appoint Mr. Egi Chu, an advocate, as my lawful attor -ney and give him the following authority,

To act in all things in my behalf as appellee in the lawsuit relating to the civil appeal case of No. 242(wo) 1902 in the supreme court.

July 14th 1902.

Arakawa Yoshitaro,
The governor of Nagasaki Ken.

Application for seeing the record.

I hereby apply to copy the record relating to the appeal case of a claim to establish a perpetual lease and for delivery of land. No. 242 (wo) 1902 in the civil department in your court.

August 11th 1902.

Egi Chu, the appellee's attorney.

To the second civil department
in the supreme court.

The application for referring to the record continuously.

Wishing to refer continuously to the record of the appeal case of No. 242 (wo) 1902. I hereby apply to you to lend it me to me.

August 12th 1902.

Egi Chu, an advocate,
the appellee's attorney.

To the clerk Esq., in the second ee civil
depattment in the supreme court.

October 4th 1902.

No. 242 (wo) 1902.

The counter plea in the appeal case of the claim to establish a perpetual lease and for delivery of land.

The second civil department of the supreme court.

October 4th 1902

No. 242 (wo) 1902. No. 4308.

Ishibashi Tomokichi, the appellee's attorney.

Egi Chu, the appellee's attorney.

Counter Plea.

Frederick B. Lake, appellant, plaintiff,
An American citizen, No. 40 B Sagarimatsu, Oura
Nagasaki shi, Nagasaki Ken.

Sato Hakuai, attorney.,advocate, No. 40, 3chome,
Honcho, Yokohama.

Nagasaki Ken, appellee, defendant.

Arakawa Yoshitaro, the representative of appellee,
the governor of Nagasaki Ken.

Ishibashi Tomokichi, ~~attorney's~~ appellee's attorney,advocate,
No. 41 Mayacho, Nagasaki Shi.

Egi Chu, appellee's attorney, advocate,
No. 72 2chome Awajicho, Kanda, Tokyo.

The appeal case of the claim to establish a perpetual lease and of delivery of land.

Definite application.

The appellee prays for a decidion to the effect that this appeal is rejected.

Reasons.

The appellee denies the facts stated as the history of this case in the statement of reasons for appeal by the appellant and such facts as these written by him are not at issue; and also the appellee presents the following counter plea according to the facts admitted in the judgment of the appeal court and written in the record of pleading.

1.

The first point of the appeal is written redundantly; in short, it means only that a perpetual lease is real ~~without~~ property which can not be confiscated without a judgment of a consular court, but the defendant did so confiscate it; therefore g the judgment of the appeal court which sanctioned that illegal act is contrary to law.

In reply to the above point of appeal, the appellee makes the following counter pleas and insists that there is no raesonable ground of appeal.

(A) What is the cause of the lawsuit? How does the appell-

-ant regard it? According to the statement of reasons for appeal, it seems that the cause of this suit is the appellee's wrongful act of confisca-ting in his official capacity the appellant's real property.

If that be so, such suit can not be decided in the civil court and it goes without saying that it must be rejected immediately by the authorities. But according to the written declara-tion, the judgment of the appeal court and the record of pleading, it is clearly seen that the appellant did not insist upon such wrongful act as the cause of lawsuit.

Now, this case is a suit to recover damages, and the cause is the violation of a contract or the fact that the superficies had been extinguished by the appellee's act contrary to the contract of perpetual lease, and the point at issue is whether or not the superficies is extinguished by neglect to pay the rent in advance, the parties desire a decision on the above point and it is clear from all documents in this case that there is no other point at issue.

In the record of pleading (March 4th 1901) in the ~~appeal~~ original court, it is written that the appellant answered as follows in reply to the question of the chief judge. The points at issue in the case are as follows:

(1) Does the word "mae" (before, etc.) in the deeds in this case means "before the term of the year begins" or not?

(2) Did the parties tacitly admit that payment before the term of the year begins was not required for a number of years?

The appellee answered in the affirmative and at the ~~after~~ following examinations both parties presented evidence relating to these points at issue; and the ~~appeal~~ original court gave its judgment on these points at issue and decided that ~~accor~~ according to the interpretation of the contract, the appellant's right ought to be ~~ex~~extinguished because of his neglect to pay the rent in advance.

Therefore the claim of damages has no reasonable ground. So, the question of the right or wrong about the confiscation under public law by the public authorities has no relation

to the cause of lawsuit; therefore, though the appellant insists that the property of an American citizen can not be confiscated without due process of law, quoting the American laws, his argument has no bearing upon this case.
Moreover, our constitution provides that no one's property can be confiscated without process of law, so of course, the appellee did not commit such a wrongful act, and in sanctioning the cancellation of the appellant's right according to contract between the parties and he merely enforced the rights of the contract.
So the first point of the appeal has no value against the judgment of the appeal court.
(B) The appellant never argued in the appeal court about the fact of confiscation by public authority, written in the first point of the appeal and moreover he did not establish his point regarding the laws of foreign countries, quoted therein; therefore these points can not be judged in this appelate court.

II.

In the appeal court, the point at issue between the parties was not about the validity or invalidityof the American consul's declaration as to the cancellation of the title deeds, but was as to the appellant's act of neglect in paying the rent. For, the lease ought to have been extinguished immediately because of the negligence in paying the rent, but not because of the American Consul's declaratin as to the cancellation of the lease.

In the judgement of the appeal court, the following passage occurs:

The lease had been granted to the plaintiff's predecessor and it was determined that the rent must be paid in advance, otherwise, the deeds of lease should become void.
But when the plaintiff's predecessor was exiled from the Empire, in 1894, he did not appoint a manager for this lot and did not pay the rent for the term of that year, so notice was given to the American Consul etc.....

The above passage means only that the extinguishment of the right(lease) was not to take effect from the Consul's declara-tion of cancellation, but that it took effect at the time of the neglect to pay the rent and that the notice to the consul was given afterwards as a matter of procedure.

According to the record quoted in the plea(A) as to the first point of appeal, the points at issue in the appeal court were as follows:

Was the right to be extinguished by the neglect to pay in advance or not?

Had the parties tacitly consented to neglect in payment?

And about these points, evidence was presented. Especially, in reference to B, No. 4 it is written in the record of pleading on 27th January 1902 that the above document proves clearly that the right is extinguished immediately by the neglect to to pay the rent in advance; from this part of the record, it may be seen that the appellee insisted that the extinguishment of the right took effect immediately simply because of the neglect to pay the rent in advance.

Also, among two or more independent methods of attack or defence, if one be suitable, the court has no obligation to judge as to other methods according to section 2, art. 370 of the Code of Civil procedure as stated in the second point of the appeal.

3.

The third point of appeal is as follows:

By a mere hypothesis, the original court had applied to the establishment of the said lease on a lot of a ground outside the foreign settlement the Nagasaki land regulations which had been adopted in the first year of Man-en to apply to the foreign settlement only, and also, notwithstanding the fact that it is clear that before the Restoration in the Empire, there was no system of fiscal years, the appeal court had explained that the word "mae-biro" meant "before the term of the fiscal year begins", quoting the above regulation. Such

explaination had therefore no meaning.

In reply to the above point, my counter plea is as follows:

(A) Though the judgment of the ~~appeal~~ original court relating to this point is presumed to be unjust yet the interpretation in the judgment of the ~~appeal~~ original court is not an essential point. In the judgment of the ~~appeal~~ original court, the following fact is admitted in relation to exhibit B, No. 4 after quoting the provisions of the deed:

" Such words must be interpreted to mean that the rent must be paid before the term of year begins and if such payment be neglected the title deeds shall be cancelled."

And afterwards, the above regulation is argued in the judgment of the ~~appeal~~ original court ~~nearly~~ merely as an unessential point; therefore it can not be changed by the appeal relating to this regulation only.

(B) The judgment of the ~~appeal~~ original court did not apply the land regulations as a law or an ordinance but only recognized the fact that exhibit B, No. 4 was made according to the land regulations, since they generally applied to foreigners. Therefore the question, whether the land was outside of the foreign settlement or not has no relation to the recognition of the above fact.

(C) In the section entitled "the facts" in the written judgment of the first court ~~quoted in the appeal court~~, it is ~~written~~ stated that the plaintiff's predecessor acquired the lease right by ~~virt~~ virtue of exhibit B, No. 4 similarly to a lease in the foreign settlement and that the above fact is not a point at issue between the parties.

From the above, it is clear that the ~~appeal~~ original court properly applied the regulations for the explanation of the facts.

Also though the appellant insisted that the original judgement as to the above point was a mere hypothesis, yet the ~~appeal~~ original court judged by the above regulations (exhibit B No. 10) presented as evidence, therefore it wasnot a hypothesis.

(D) The judgment of the ~~appeal~~ original court explained that the word "nenji maebiro" (to pay annually in advance) means the "before the term of year", and this explanation means that the word "maebiro" has the same meaning as expression "before the fiscal year begins" in use to-day; therefore it is not a word which has no meaning, as the appellant insists.

4.

The fourth point of the appeal is as follows:
The right to cancel the contract can not be executed without application to the American consular court; and the defendant having neglected such proceeding, the said perpetual lease had not yet been cancelled ; but the ~~appeal~~ original court admitted contrary to law that this right of lease had been cancelled.

In reply to the above point, I make the following counter plea.

(A) It seems to me that the appellant has forgotten what lawsuit he instituted as plaintiff. This lawsuit is a claim for damages.

The appellant, the plaintiff, explained that the said lease had been cancelled and extinguished already and that the full ownership was in the possession of a third person.
He himself admitted the cancellation of the lease and instituted the lawsuit to secure a claim of damages instead of to recover the lease right.
But now, the appellant contends in contradiction to the above statement that the lease has not been annulled. Therefore the appeal on this point has no relation to the aforesaid lawsuit.

(B) The appellant insists that for the execution of the right of cancellation one must apply to the American Consular court. But according to the American laws, an application to the court is not necessary to execute the right of cancellation.

Moreover both the parties did not think of ~~such~~ the above proceeding in relation to the lease contract, but rather they

thought as in the judgment of the ~~appeal~~ original court that the rescission of the contract took effect by the intention of the parties.

(C) In the ~~appeal~~ original court, the appellant did not present the method of attack relating to this point of appeal and also did not present the evidence relating to the fact of the application for rescission. Therefore that point of appeal has no standing in the ~~appellant~~ appellate court.

5.

The fifth point of the appeal is that the office should have issued a notice of payment due and sent it to the defend-ant* but the defendant did not issue or send any such notice. In reply to this point, I make the following counter plea.

(A) The land rent fixed by the contract between the two parties is different from taxes or other public fees and there is no provision requiring ~~to~~ issue of a notice of payment due.

(B) If it were necessary to issue a notice of payment due, the appeal court recognized by the evidence B, No 3 that it had been issued and it had been sent to the Consul, for the defendant* was absent and had not appointed his representative

(* Translator thinks this word is witten by mistake and "defendant" should be "plaintiff".)

Therefore the appellant censures only the the recognition of a fact.

(C) The fact that the plaintiff was not in Japan at that time and that he had not appointed a manager is recogniged by the ~~appeal~~ original court; therefore the defendant, the office, had no obligation to send a notice of payment to a foreigner in a foreign country.

(D) Moreover, when the appellant's predecessor was exiled from Japan, he did not appoint a representative to pay taxes and refused to appoint a manager for his property; so it was impossible to send him the notice of payment due. For that reason the appellee sent it to the consulate. Thus, the impossibility of sending the notice of payment due was caused by

the intentional act of the appellant, but he insists that the appellee must be held responsible for the impossibility of sending the notice. If the party whose interest would be adversely affected by an event intentionally prevents it from happening, he can not insist on receiving some advantage by the reason of the fact that the event did not happen. According to the article 130 of the civil code and for other general reasons, it is clear that such insistence is unjust.

6.

The sixth point of the appeal is as follows;
The ~~appeal~~ original court determined that the evidence exhibits ~~A~~ No. 1, No. 2 and No. 5 and a few person's testimony are not sufficient to establish such and such facts and did not ~~expla~~ explain the reason for the above conclusion. So the ~~appeal~~ original court decided without reason.
But the conclusion that these are not sufficient to establish the facts in a reason. The original judge can determine as to the facts and decide as to the evidence by his authority; so the appeal censuring this authority is unreasonable.

7.

The seventh point of the appeal is that the exaplanation of the evidence, B no. 4 is unjust, so in reply to this point I make the following counter plea.
(A) In this point, the appellant censures the exaplanation mada by the authority of the ~~appeal~~ original court and it can not be a reason for appeal.
All deeds must be interpreted according to the meaning at the time the Contract was made between the parties.
If the rent of a lot leased to a foreigner should be permitted to be paid by any one, instead of by the tenant, the one who ~~has~~ actually held the lease right would change frequently and the administrating office would find trouble in superintending it; so it is easily supposed that when this contract was made there was the intention between the parties to limit the persons who might pay the rent on behalf of a tenant.

Therefore this interpretation of the ~~appeal~~ original court does not contradict any law or regulation.

(B) Though it be assumed that the appellee had no right to refuse to receive the rent offered by a third person by ~~the~~ subrogating payment or ~~by the~~ in the course of business management, the appeal relating to this point can not be sustained for the following reasons.

The judgment of the ~~appeal~~ original court decided that the fact that rent was offered by Edward Lake on behalf of the appellant's predecessor can not be admitted and rejected the claim of the appellant. Also, in the judgment of the ~~appeal~~ original court the following is written:

"If it be assumed that it was a fact that the payment of the rent had been offered by Edward Lake before ~~the~~ July 31st of the same year etc------the one who should pay the rent was limited and it could not be understood to mean that any one might pay the rent in behalf of the tenant and by such payment the lease be continued." This agreement is a ~~mere~~ hypothesis.

Therefore in case the ~~proper~~ main argument should ~~not disproved~~ be sustained the appellant could not be ~~prohibited~~ profited by the disproval ~~by~~ of the hypothesis. An appeal without ~~interest~~ benefit can not be ~~made~~ a ground for upsetting ~~reason to break~~ the original judgment; and one who has no interest has no right of action; therefore the appellant's argument on this point can not be sustained as a ground of appeal.

8.

The eighth point of appeal is as follows:

It is unjust that the ~~appeal~~ original court accepted the defendant's contention according to new evidence, A, No. 6.

But the appellant not only finds fault with the authority of the judge, in approving or rejecting evidence, but he also misunderstands the meaning of the original judgment.

The ogiginal court did not admit that the new evidence, A, No. 6 was sufficient to establish the appellee's contention, ~~but~~ but only admitted, by comparing the above evidence with the

evidence B, No. 9, that when the appellant's predecessor left the Empire he refused to appoint a manager.
In short, the ~~appeal~~ original court applied the evidence B, No. 6 and rejected the evidence A, No. 6.
Therefore, the ~~appeal~~ original court did not give such unlawful judgment as the appellant insists by ~~reading~~ rendering its decision according to evidence not prensented or used by the appellee.

9.

The ninth point of the appeal reason is as follows:
It is unlawful that, notwithstanding the designation of the public officer executing the document was not written in the evidence B, No. 9, the appeal court admitted it to be a public document.
But the appeal court, according to the testimony of Yamaguchi Nawomichi and to the fact that the letter was written on the paper generally used by the consulate, recognized it as a public document by virtue of its authority to recognize the fact. Moreover there is no law that when the designation of a public officer is not written, the court can not recognize a paper on other grounds as a public document .
Therefore the original judgment of the appeal court on this point is not contrary to the law.

10.

The tenth point of the appeal is as follows:
" It is unlawful that, notwithstanding the American Consul at that time was W. H. Abercrombie, the original court had recognized, on the testimony of Yamaguchi Nawomichi, the evidence, B No. 9 signed by another person as a letter written by the Consul."
But the ~~appeal~~ original court recognized the fact by virtue of its lawful authority and was not contrary to any law.
And also the appellant misunderstood the judgment, The ~~appeal~~ original court did not admit that the American consul was the person who signed the exhibit B No. 9, but the signer of this evidence being another man, the appeal court recognized him as a clerk representing the consul during his absence and admitted the exhibit as a document issued by the American Consul, in reply

to the notice to the consul from the governor of Nagasaki Ken. Therefore the action of the ~~appeal~~ original court is not to be ~~ess~~ censured in this point.

11.

The eleventh point of the appeal is as follows:

The appellee (defendant) not having the ownership of the said lot, it was a necessary result that the plaintiff's predecessor was unable to enjoy his right and therefore, the plaintiff brought suit for damages; so it unlawful for the ~~appeal~~ original court to decide that the plaintiff had no ground for the above claim.

In reply to this point, I make the following plea:

(A) The perpetual leases held by foreigners are created for foreigners on the lots owned by the government, and this was stated also by the appellant in his appeal. If the said lot were not owned by the government but by another owner, the lease could not have been valid from the first; therefore the said ~~[illegible]~~ lawsuit on the ground of ~~[illegible]~~ the lease contract had no proper reason.

In the portion of the first court judgment entitled "the facts" it is written that "the plaintiff having neglected to pay the rent, the lot was confiscated and was returned to the owner." This clause does not mean that even during the continuance of the lease, the ownership of the said land belonged to another person, but it means that the appellee brought it from another person and afterwards he created the lease on it for the appellant, but the lease having been annulled the lot was returned to the first owner; and that was the relation between the appellee and the first owner, and the above expression does not mean that as regards the appellant this lot was owned by another. Therefore, during the continuance of the appellant's lease, the appellee had the right of ownership of the lot, but the lease having been cancelled, the appellee transfered his right to the third person, or the first owner, and this is the same as if the appellee had sold it directly to another person without transfering it to the first owner.

(B) In the portion of the judgement of the first court entitled "the facts", it is recognized that the said lease having been cancelled, the appellee had transfered his ownership to the first owner.

The above fact was written to make clear that the plaintiff (appellant) ought to claim the recovery of the lease right, but the appellee having transfered the said lot to another, damages were claimed instead; the above fact might be presented as a reason why the lawsuit claiming damages can not be presented; but the appellant did not offer the formal plea relating to this fact; therefore this fact has no relation to the action relating to the said suit for damages.

Further, appellant did not insist upon the above fact in the ~~appeal~~ original court and this fact was not a point at issue between both parties; so the ~~appeal~~ original court did not take any action as to the above fact . In short as this fact was not a point at issue between the parties in the ~~appeal~~ original court; therefore the ~~appeal~~ original court did not give any judgement relating to this point, and its action was not contrary to the law.

As above mentioned, I hereby present the counter plea in reply to the reason for appeal, ~~reason~~.

October 4th,1902.

Ishibashi Tomokichi, the appellee's attorney

Egi Chu, the appellee's attorney.

To the second civil department

of the supreme court.

The second civil department of the supreme court,

October 10th 1902.

No. 242 1902 No. 4443.

Record.

On 10th of October 1902, the following officers were present in the court opened publicly, being second civil department of the supreme court:

Terashima Choku, judge, chief judge,

Imamura Shinko, judge,

Yanagida Nawomichi, judge,

Serizawa Seiwon, judge,

Kakeshita Shigejiro, judge,

Baba Genji, judge,

Koyama On, judge,

Murai Kotaro, clerk of the court.

Relating to the appeal case of the claim to establish a perpetual lease and for delivery of land, No. 242(wo) 1902, between Frederick B. Lake, the appellant and Nagasaki Ken, the appellee,

Sato Hakuai, an advocate, the appellant's attorney.

Egi Chu, an, the appellant's attorney.

Ishibashi Tomokichi, an advocate, the appellee's attorney.

were present.

Komiya Miwomatsu, a public procurator appeared.

The appellant's attorney stated the definite application according to the writ of request for revision.

The appellee's attorney stated the fixed declaration according to the plea.

Afterwards the attorneys of the appellant and appellee pleaded.

The appellee's attorney declared that he will deny the statement of the facts in this case, given in the request for revision.

The appellant's attorney declared that he wishes to present proof ~~pending~~ regarding the existence of the American laws to be applied in the jurisdiction of the consular court and also applied to summon witnesses.

Afterwards, the appellant's attorney declared that he would revoke his application for presenting further evidence.
The public procurator stated his opinion. These above declarations were read in the presence of attorneys of the parties and were approved.
The chief judge , after consultation, gave notice that he would give ~~the~~ judgment on the 15th day.

October 10th 1902.

Murai Kotaro, clerk of court.

Terashima Choku, judge, chief judge.

The second civil department of the supreme court.

October 15th 1902.

No. 242 (wo) 1902 No. 4624.

Record.

On the 15th October, 1902, the following officers were present in the publibly opened court of the second civil department of the supreme court.

Terashima Choku, judge, chief judge,
Imamura Shinko, judge,
Yanagita Nawohei, judge,
Serizawa Seiwon, judge, ~~Kakeshita Shigejiro~~
Kakeshita Shigejiro, judge,
Tashiro Ritsuwo, judge,
Koyama Won, judge,
Murai Kotaro, clerk of the court.

Relating to the appeal case of the claim to establish a pertual lease and for delivery of land, No. 242 (wo) 1902 between Frederick B. Lake, the appellant and Nagasaki Ken, appellee, the attorneys were not present.
The chief judge rendered judgment by reading the main clause.

Murai Kotaro, clerk of court.

Terashima Choku, judge, chief judge.

Application for serving a cppy
of the judgment.

I hereby apply for a certified copy of the judgment relating to the appeal case claiming to establish a pertpetual lease and for delivery of land, No. 242 (wo) 1902,the second civil department in your court, which was rendered on October 15th, 1902.

October 16th,1902.

Egi Chu, the appellee's attorney.

To the second civil department in the supreme court.

Information as to return of the record.

No. 670 (wo) 1902.

I hereby return to your office the record of the above lawsuit, annexing the certified copy of the judgement in this court.

October 29th 1902.

Murai Kotaro, a clerk of the court,
the second civil department in the supreme
court.

To clerk's office in the Nagasaki district court.

(This above mentioned record is sent by the post to-day.)

Application to see the documents.

I hereby apply to see the documents relating to the case, No. 67(wa) 1900.

(Plaintiff Frederick B. Lake)

Department, Nagasaki Ken.

December 9th 1902.

Ishibashi Tomokichi.

To the clerk's office of the civil department in Nagasaki district court.

The first court. No. 67 (wa) 1900.
The second court. No. 262 (ne) 1900.
The appellate court. No. 242 (wo) 1902.

Application for ~~the~~ copy of the written ~~judgment~~ judgment.

Frederick B. Lake, plaintiff.

Nagasaki Ken, defendant.

Relating to the claim to establish a perpetual lease and for delivery of land, between the above parties, the judgment, having been rendered in the supreme court on the 15th, October, I hereby apply to receive the copy of the written judgment .

Sato Hakuai, appellant's attorney, advocate,

No. 40, 3chome, Honcho, Yokohama, Kanagawaken.

November 7th 1902.

~~To the Nagasaki district court.~~
To the Nagasaki district court.

Application for seeing the documents.

Frederick B. Lake, plaintiff.

Nagasaki Ken, defendant.

I hereby apply to see the documents relating to the case between the above parties.

July 22nd 1903. Ishibashi Tomokichi.

To the clerk department

in the Nagasaki district court.

I hereby certify that the documents herewith constitute a complete copy of the [redacted] records of the Nagasaki district court, the Nagasaki appeal court and the supreme court, relating to the case of the claim to establish a perpetual lease and for delivery of land, Frederick R. Lake versus Nagasaki Ken.

January 26th 1905.

Matsuoka Rishichi,

Daishonin(one who writes documents for another)

in the Nagasaki district court.

American Legation, Tokio, Japan. Enclosure No. 3, with Mr. Wilson's No. 344, of November 24, 1905.

TRANSLATION

To the Supreme Court.

Petition of Revision

by

Frederick B. Lake of Nagasaki.

Demandant: F. B. Lake.

Demandant's Process Attorney: Sato Hakuai,
Barrister-at-law.

Repliant: Nagasaki Ken.

Repliant's Representative: Arakawa Yoshitaro,
Governor of Nagasaki ken.

Designation of the Judgment against which this demand for revision is lodged:

The judgment rendered in Second Instance on 3rd February, 1902, by the Appeal Court of Nagasaki in the case pending between the above mentioned parties relating to recovery of a perpetual lease, to the effect that the Appeal is rejected and the costs of Court should be borne by the Appellant.

The above judgement has been served ~~to~~ the Appellant on the 18th February, 1902.

Declaration that this demand for revision is lodged against the above judgement, and as to how far the same is attacked:

The Demandment attacks the whole of the judgement, and applies for its full annulment.

The grounds on which this demand for revision is based:

As the matter in dispute is so extremely complicated, it will be neccessary to state here a brief history of the case in order to render the reasons for this demand as distinct as possible.

Upon agreement with the repliant, the father, now deceased, of the Demandant had established and acquired a perpetual lease on the land, covering 765 tsubo, at Aza Sagarimatsu, Kosone Machi, Nagasaki, for the purpose of building a ship yard and a rice mill on the same ground; and since then these were known as the Aza Kosone Machi Ship Yard and Rice Mill.

The said tract of the land had been originally owned by a certain person, named Kosone, and on this same land the above mentioned perpetual lease had been established by the Repliant for the benefit of the Demandant's father. At the same time, however, the Repliant had neglected to compensate the aforesaid Kosone for the land; hence said Kosone made complaints to the Repliant unceasingly for several years of the latter's wilful negligence to pay him back the said land, of which the former was the actual owner. Incidentally in April, 1894, the Demandant's father had to be deported from this country, and the Repliant Governor and other offials of the Kencho, taking advantage of this opportunity, preferred a step by which the Repliant could make good said Kosone's claim. The Repliant, being desirous of returning said tract to said Kosone instead of paying him for its value, tried to confiscate somehow the said perpetual lease of which the Demandant's father had right to hold under the agreement made by him with the Repliant. Therefore, when Edward Lake, with whom the Demandant's father left trust of his property, tendered the land rent to the Repliant the latter refused to accept it for some obscure reasons; thus the Repliant refusing, on one hand, to receive the rent, gave notice on the other to the American Consul, who had no obligation whatever to pay the said rent to the Repliant, to the effect that said tract and buildings must be turned over to the Government if the rent in question be not tendered before 31st July of the same year, 1894. By misapplication of the official function of a consul the American Consul cancelled the said title of the Demandant's father; but later on the said Consul did withdraw his cancellation in compliance with the order of his senior officer, American Minister; and the same had been duly notified to the Repliant.

Notwithstanding the above stated fact, the Repliant Governor of Nagasaki took possession of the said tract and delivered it to the original owner instead of paying the latter for its value.

The object of the present petition is to claim by the aforesaid reason against the Repliant for recovery of a sum of Yen 22,000., the same being the value of the said perpetual lease, to which the

Demandant's father had been entitled under the said agreement, which was most unlawfully confiscated by the Repliant Governor.

The following points are quoted in the Judgment of the Appeal Court and also in the abstract from the Judgement of First Instane quoted in the first mentioned Judgment, which are disputed between the parties in controversy;-

(1) That the Repliant conferred on the Demandant's father a perpetual lease on the land covering 765 tsubo, located at Kosone Machi, Nagasaki, and on which the ship yard and rice mill had been built;

(2) That the Demandant's father had been deported from this country during the year of 1894;

(3) That in the course of the year of 1894 the Repliant had induced the American Consul to declare the said lease in perpetuity void on the ground that the Demandant's father had failed to tender the land rent to the Repliant; and that later on this act of the Consul had been withdrawn by the order of the Minister of U. S. A. and the Repliant had been duly notified to the same effect.

The grounds on which the present petition ~~is~~ are based are as follows;-

(1) A perpetual lease is a kind of real property to be established only on Government land, and its nature much resembles the right of superficies, the merit it derives being equal to that of the right of ownership. Thus, it will be clearly seen that a lease in perpetuity can not be argued by the principle of hiring and letting to hire, which is ~~b~~ none but a matter of contract. In Exhibit 4 B, it is stated that in case of default of the rent or otherwise this title should be cancelled and the buildings on the land should be confiscated by the Japanese Authorities. This clause was a sanction provided for the lease holder's wilful negligence to

perform his duties, and the ~~am~~ same should not be construed by the aforesaid principle as a condition provided for a recission of contract.

That a perpetual lease, in its nature and merit, is akin to a right of ownership and not a matter of contract can be duly explain-ed by the words expressed in the above sanction, that is " in case of default of the rent, the title be cancelled and the buildin-ings on the land be confiscated by the Japanese Authorities."

The said buildings were erected by the leaseholder, and not owned by the Authorities; so the confiscation of these buildings by the Authorities can not be called a resultof the recission of contract.

And again there is "This title should be cancelled",in which it is no doubt meant a penalty(confiscation) provided for any wilful negligence on the part of the leaseholder, and not meant as a recis-sion of any matter of contract.

First of all, previous to the New Treaties' coming into force any confiscation of a foreigner's property by the Authorities could be effected only through the decision of a Consular Court. In those days every Treaty Power could exercise her own jurisdiction within the empire of Japan. As to what matters its juris-diction extended we are able to see distinctly in Article 16 of the Austrian Treaty of 1869, in which it is set forth that"If a Japanese subject has a complaint or grievance against a citizen of the said Monarchy, the case shall be decided by the Imperial and Royal Authorities, and should any Austro-Hungarian citizen fraudu-lently abscond or fail to discharge debts incurred by him to a Japanese subject, the Imperial and Royal Authorities will do their utmost to bring him to justice, and to enforce recovery of the debts".

A citizen of the United States of America was entitled, beyond any doubt, to enjoy the privileges and liberties granted to an Austro-Hungarian citizen, according to Article 9 -the Most Favored Nation Clause- of the Treaty between Japan and the United States of America signed at Kanagawa March 31st 1854. The office of an American Consul and that of an American Consular Court were distinctly

defined as two different things. Article 4 of the Convention between the United States and Japan states "Americans committing offences in Japan shall be tried by the American Consul-General or consul, and shall be punished according to American laws. Japanese committing offences against Americans shall be tried by the Japanese Authorities, and punished according to Japanese laws". But this was in contravention of the Constitution of the United States, which provides that all the citizens of the United States shall be only tried by the Judges and Jury consisting of 12 men. So in the Treaty of 1856 it was expressly mentioned that "Americans committing offences against Japanese shall be tried in American Consular Courts, and when found guilty shall be punished according to American laws. Japanese committing offences against Americans shall be tried by the Japanese Authorities, and punished according to Japanese laws. The Consular Courts shall be open to Japanese creditors, to enable them to recover their just claims against American Citizens, and the Japanese Courts shall in like manner be open to ~~M~~ American citizens for the recovery of their just claims against Japanese".

To carry out into full effect the Provisions of this Treaty, the American Congress, in the year 1869, passed a law investing Ministers and Consuls with judicial authorities, defined their jurisdiction and prescribed rules by which they should be governed in the administration of justice. This law and acts supplemental thereto are now embodied in Title 47 of the Revised Statutes of the United States.

The Treaty Powers had exercised thier respective jurisdiction within the Empire solely for mutual benefits. That the Empire had preferred not to brigg the foreigners within the limit of our own jurisdiction is something like the idea entertained by the ancient Romans that they shall not treat the foreigners by their own venerable laws.

The jurisdiction of the Treaty Powers had been exercised within the Empire under the friendly approval of His Majesty the Emperor, and it being so, were not, in a legal sense, in contravention of the Sovereign Power. Therefore, an American law relating

to the organization of the Consular Courts had been exercised within the Empire, under the Imperial auspices, as a Japanese law. This law must be, on the same grounds, recognized by our Courts to be just as good as the origin of this law, the said American Treaty.

Now, in order to confiscate the Demandant's right on real property, the Repliant Governor should have conmunicated to the American Consular Court, and not to the Consul, as he did; and theConsular Court should have examined and tried the said litigants according to the American laws. But instead of acting on behalf of the Consular Court and without paying the slightest regard to the practice of the said Court, the Consul cancelled the Demandant's title deed upon the former's receipt of the said communication from the Repliant Governor. This was indeed an utter violation of the justice; but this unlawful act of the Consul was, as a matter of course, cancelled by his senior officer, the U. S. Mister, whose Court ranks higher than the Consul's. This withdrawal of the Consul's had been duly notified to the Repliant.

All these facts are expressed in the Judgment of First Instance and are quoted by the Judgment rendered in Second Instance; and so there can never be any dispute between the said Litigants as to that the Title Deed in question had been first cancelled by the said Consul, and secondly his unlawful act had been cancelled by the U. S. Minister, and lastly the withdrawal of the Consul's act had been duly notified to the Repliant Governor of Nagasaki.

In fact the claim of the Repliant to confiscate the said title deed together with the buildings had been ultimately dismissed by the order of the American Minister; therefore, the Demandant should have possessed and enjoyed the said perpetual lease in question.

The Court of Second Instance has overlooked the foregoing acts, and delivered the judgement in favor of the unlawful act of the Repliant who had no right whatsoever to confiscate any property belonging to a citizen of the United States. So the Demandant repeats that the said Judgement of Second Instance is in violation

of justice.

(2) It is stated in the above judgment that as the statements of facts by the both Litigants are the same as those expressed in the Judgment of First Instance, the Court quotes the same facts. The following are the facts quoted as protests by the Repliant in the Judgment rendered in First Instance;-

A perpetual lease had been granted by the Repliant to the Demandant's father, and the rent had to be tendered in advance, and the said title had to be cancelled upon default of the said rent. Eventually in 1894 the same Demandant's father had to be deported from this country; and he had left no custodian over the said tract of land; and furthermore the rent for the said year of 1894 had not been tendered to the Repliant. Upon this, the Repliant communicated to and requested of the American Consul to declare the cancellation of the said Perpetual Lease. The Consul did so, and the Repliant confiscated the said property, and delivered the same to its original owner. Therefore, the Demandant's claim is without ground. The meaning of the above contention is, in short, that the Repliant confiscated the said property acting upon the declaration of the American Consul, and that therefore what the Repliant did was lawful.

Against this the Demandant protested that the said declaration of the Consul was null and void after the same had been withdrawn by the same Consul in ~~obeyance~~ obedience to the order of the Minister; and therefore, the point at issue should have been whether the said cancellation by the Consul of the Title was valid or not, from the legal point of view, and should not have been whether there were any default on the part of the Demandant to tender the rent or not; and except this there are no independent means to be adduced in support of the Defence.

The Court of Second Instance did not look at the above point at issue in its proper light, and delivered the decision in favor of the Repliant on the ground that the land rent had not been tendered by the Demandant at the due date. That the ground rent had not been tendered when it became due is only a statement of fact, by which the Repliant requested the Consul ~~to~~ to cancel

the said title; the Court should not have based its decision on this ground. Therefore, the said Judgment is in contravention of both Articles 230 and 231 of the Code of Civil Procedure, in which there are the following provisions;-

Article 230: The judgment shall embrace all the means of attack and defence brought forward at the proceedings.

Article 231: The Court is not empowered to accord to a party any thing which has not been applied for.

(3) The Court of Second Instance took up Exhibit 4 B and interpreted the part relating to the due date of the rent as follows;-

> The due date of the rent mentioned in this Exhibit should comply with Article 6 of the Nagasaki Land Regulations, that is, all the rents of the land rented by foreigners within the foreign settlement should be tendered on the 10th of December of each year in advance for one following year.

This interpretation of the said Regulation by the Court is not correct; it was misconstrued by a mere hypothesis of the Court. In fact, the said Regulation came into force as the result of the Conventions concluded between the Nagasaki Bugyo and the then resident Consuls of the seven Powers on the 29th September, 1860, for the purpose of fixing the limit of the foreign settlement and dividing up the same for letting it to the foreigners and also the supplementary rules for the police administration within the Settlement.

Therefore, it is evident that the said rules are not applicable to the land in question in the present case, which were leased to the Demandant outside of the foreign settlement in the year 1888. The Court of Second Instance had misconceived these Rules and did not recognized the true intentions of the Litigants.

As regards the words "term of one year" in the Judgment,

the Court must have meant "a fiscal year" , as it concerns the due date of the rent. Now, the Court must duly recognize that there was no " fiscal year" in this country before the Restoration, as our history proves. In spite of this established fact, the Court interpreted the word "Mayebiro" as "Before the Fiscal year" by quoting the Nagasaki Land Regulation of 1860; thus, the word was not explained according to true sense, consequently the said Decision was not accompanied by reasons.

(4) Supposing, for the sake of argument, that the perpetual lease is also a matter of contract, the nature of which is like that ~~the~~ of hiring and letting to hire, we ~~shall~~ are still confronted with the fact that previous to the Civil Code's coming into force any recission of contract could only have been effected by applying to a Court, as it is evidently shown by the precedents of the Supreme Court. Now, take the present case for instance: Suppose that the contract was to be rescinded upon default of the rent, even then the Repliant could not have exercised his right of rescission unless he has applied to the American Consular Court to that effect. This is obvious enough.

Therefore, even if we suppose that the persent lease in perpetuity was also a matter of contract, it was never cancelled because the Repliant did not take the slightest trouble to duly exercise his right of rescission-- to apply to the American Consular Court . Not only this , but also the Repliant did not express his intention to rescind the contract against the Demandant.

Against these plain facts, the Court of Second Instance declared, in violation of law, that the lease in question has ceased to exist upon default of the rent.

(5) Even if it had been agreed by the Litigants that the rent for each following year had to be paid in advance, a pay-bill must have been issued by the Authorities(the Repliant) at a certain date, or a notice must have been given to the same effect, no matter whether it was a tax or a rent. An obliger can not be held responsible unless the same bill or notice has been

issued to him beforehand by the Authorities. In the present case, if the Demandant had to stand responsible for the alleged default of the rent, it should have been sufficiently proved by the Repliant that the said bill had been issued to the Demandant; and also the same should have been served on the latter. In the present case , however, nothing has been proved to that effect by the Repliant.

The Court of Second Instance recognized the fact that the Repliant had issued the said bill by taking up Exhibit 3 B in which there is the following part;- " Kindly return the pay-bill to the Kencho which has been served sometime ago."

Now, the Exhibit is nothing but a letter from the Repliant to the American Consul, and the pay-bill mentioned in the said letter had been served upon the Consul and the Demandant; and so the validity of the bill thus served can not be so binding as that of the one, if it had been served, upon the Demandant. Therefore, if there were no proofs as to the service of the bill to the Demandant or his relatives or employees, there should be no reason to hold the Demandant responsible for default ofthe rent.

The Court of the Second Instance lacks sufficient reasons in hastily concluding by this Exhibit that the Demandant had wilfully neglected to tender the rent.

(6) The Demandant insisted that as the Repliant refused to accept the rent, when the same was tendered by Edward Lake, the Demandant's uncle, the Demandant was not to be held responsible for the consequences incurred thereby.

But the Court of Second Instance rejected this on the conclusion that Exhibits Nos. 1,2,& 5 produced by the Demandant and also the statements of witnesses are not sufficient to prove that the rent had been tendered to the Repliant by said Edward Lake on behalf of the Demandant before the 31st July, 1894.

It is not , however, explained by the Court why so many proofs are not sufficient to corroberate the Demandant's statement.

A

Documentary evidence shall not be admitted in such instances as follows;-

The truth of its origin can not be certified;
The facts stated in it bear no connection whatever with the points at issue;
The facts stated are not credible.

A witness shall not be admitted in such instances as follows;-

In a case where his relation or connection with the Litigants precludes him from standing as a witness;
When his statements are not rendered credible;
When his statements bear no direct relation to the matter in dispute, such as by heresay, although he may be duly qualified as a witness and what he states is credible.

The Court of Second Instance rejected the aforesaid Exhibits and the statements of witnesses on a mere presumption that they were not sufficient to prove that the rent had been tendered by Edward Lake, and did not give any sound reason on which the above conclusion should have been based; therefore, it is evident that the said Judgment is not accompanied by reasons. Moreover, Yamaguchi Naoji, of the Land Office of the Repliant Kencho, appeared before the Court(This is a very remarkable thing in view of his connection with the Repliant), and stated that said Edward Lake had tendered the rent several times before the Consul cancelled the title; and this statement was also rejected by the Court without any explaination whatever. Such a hasty conclusion on the part of the Court would reflect upon the dignity of the administration of justice to a lamentable degree.

(7) The Court says "Even if it were a fact that said Edward Lake had tendered the rent before 31st July 1894, the Repliant was in no way obliged to accept the rent tendered by said Edward Lake, as it is stated in the said title deed that " The rent shall be paid by George W. Lake or those who pay all the charges on his behalf"; the Court further declares " we can not interpret this=

this Clause to mean that any one who tenders the rent in his behalf is entitled to the continuance of the said title; therefore, that Edward Lake had tendered the rent, even if it was a fact, would not make the default good."

We will see that the decision of the Court is in violation of justice in a twofold manner: Firstly, according to the English version of the said title, it is mentioned that said George W. Lake, his heirs, executors, assigns, should tender 37½ Dollars in Mexican silver to the Repliant as the rent on each 100 tsubo of the said tract, etc. etc. From this, it can be seen that the said deed specifies the agreement made between the Repliant and the Demandant as to the sum to be tendered as the rent, and that it was not the question who should tender the land rent; and moreover, the duty to tender the rent should be on the part of the leaseholder or his successor; and by the same reason, that there would be no obligation to pay the rent on the part of any person or persons who are not interested in the property. Therefore, there can be no ground whatever for the existence of such an unnecessary agreement as to designate certain person or persons for the purpose of tendering the rent .

At the same time, however, there will be no obligation in binding a leaseholder or his successors or executors to personally tender any rent; they may let any one tender it at his or thier own pleasures; or they may ratify in case of the rents having been paid by third parties. The misinterpretation of the said Clause by the Court to the effect that a representative or others are not allowed to tender the rent in behalf of the said leaseholderis in a contravention of law.

Adding to this, the Court of Second Instance concluded, that as per the Judgment, the perpetual lease in the present case had been established according to the Nagasaki Land Regulations. Now, the said clause in the title deed was in conformity with the form of the lease mentioned in the Supplementary Acts of the said Regulations, and we do not see any such injustice mentioned in the above Acts as to preclude a representative or others from tendering the rent on behalf of the leaseholder. The Court of

Second Instance rendered the Decision in violation of the said Land Regulations by which the Japanese as well as the foreigners had to abide.

Secondly, In a case where the performance of an obligation can be thoroughly effected by paying with ready money, any person may tender the payment, and it will be almost never that a power of attorney be required to qualify the person who tenders the payment. Such a process is not only against custom, but also is utterly unnecessary. It is a common and daily occurrence with most people to tender payment against taxes or duties through the agency of ~~thi~~ their servants or by such due means to the Authorities; and in such cases, the Authorities never investigate as to their qualifica-tions for tendering such payments. The case will be, of course, different where a person was to receive payment on behalf of others.

It is a customary law, based upon the long established usages, to recognize any person who tenders ~~the~~ payment in behalf of some one as the representative of the obligor. Therefore, in a case where a creditor refuses to accept payment from a person who tenders payment to him on behalf of the debtor on the ground that the said person has no power of attorney from the said debtor, the said creditor is, of course, to be held responsible for the default of payment.

As said Demandant Lake acknowledged that he did tender the rent on behalf of the Demandant, it should have been duly ~~admm~~ admitted that the former was the true representative of the latter; and furthermore, even if said Edward Lake had tendered it voluntarily ~~by~~ by assuming the management of the Demandant's affairs, the Repliant should have accepted it, because it had been a lawful tender. The distinction between an authorization and a voluntary management of affairs is a matter between the first party and the authorized or voluntary manager, but there is no such distinction against a third party.

Therefore, so long as the nature of an obligation is such as may be performed by any person, the creditor can not refuse to accept the tender from a manager of affairs acting in ~~good-faith,-beca~~

good faith, because it should be taken for granted that a management of affairs is mostly conducted for the benefit of the party (principal), and shall be deemed acceptable by the latter.

In the present case, even if it be supposed that an authorization had not been given to the said Edward Lake, his tender had been lawfully qualified by the principle of management of affairs. The Court of Second Instance concluded that Edward Lake did not tender the rent in an official manner, and delivered judgement thereupon in violation of justice, customary law, and the principle of management of affairs.

(8) New Exhibit No. 6 A is a power of attorney made by the Demandant's father in the 4th year of Meiji when he had to be deported from Japan, by which said Edward Lake had been entrusted with the custody of the Demandant's propefty; and said Edward Lake kept it in continuance until the 27th year of Meiji(1894), when the Demandant's father had again to be deported. Therefore, in order to make it thoroughly effective, the Demandant's father reindorsed on the back of the above mentioned power of attorney, giving date thereon. The object of this testimony was to prove that said Edward Lake did tender the rent acting under this power of atterney reindorsed by the Demandant's father when he had to leave this country in 1894. The Court recognized the existence of this testimony, and also admitted that it was credible; and then, after comparing it with Exhibit No. 9 B, the Court used the same for the purpose of proving the contention of the Repliant to the effect that the Demandant's father left no custodian when he left Japan in the year 1894. Thus again, the Court rendered the decision against law in a twofold degree: Firstly, the Court accorded to the Repliant evidence which was not presented nor quoted by the Repliant, this is against the provisions of Article 231 of the Code of Civil Procedures; Secondly, the Court did not look into whether the new date and signature written by the Demandant's father on the back of the said power of attorney was to render the authorization more efficient and distinct, or not; in other words, the Court gave no explnation whatever as to the points quoted and contended by the Demandant; thus, the Judgment

is not accompanied by reasons.

(9) An official document can not be acknowledged as such unless it has been officially executed by the Authorities, or unless there are symbols which would indicate the official executim of such a document. Nothing of an official document can be seen in Exhibit No. 9 B, which bears the signature of a certain R. S. de Souza , and there is no symbol to iindicate its official execution.

The Court, however, came to the hasty surmise that said Exhibit is an official document from the American Consul. The ground for this surmise is that the said paper has the official headings. But this does not hold good at all, because it is not the paper with printed headings that gives the writing on it a legal force, but writing ev on any sheet of paper expressing the official capacity, or with an official symbol of its execution, can be acknowledged as an official document. To put it more plain -ly , writing even on official paper can not be acknowledged as official unless it bears the expression of an official capacity, or with some signs showing its execution.

(10) The Court not only admitted Exhibit No. 9 B as an official document on the ground that it was written on the official paper, but also admitted it as a true official letter from the said Consul to the repliant, by referring to the statement of the witness Yamaguchi Naoji. The Court aditted the existence of E Exhibits Nos. 1 B and 3 B, and also recognized that the American Consul at that time was W. H. Abercrombie, as quoted in the judgment, because these Exhibits were the official letters from the Repliant (the then Governor Ohmori) to the American Consul W. H. Abercrombie. In spite of these facts, the Court, by taking up the statement of witness Yamaguchi Naoji, recognized a certain R. S. de Souza , who signed on Exhibit No. 9 B, as the American Consul. In admitting two contradictory facts, as the Court did in this conjuncture, the decision should be deemed to lack sound reasons.

All the foreign consuls may assume their offices and exercise

their authorities withen the Empire only upon the august recognition of His Majesty the Emperor of Japan; it being so, the Court of Second Instance of Nagasaki ought to know, without proofs of the Litigants, who was the American Consul at Nagasaki for the time being just as well as who was the then Governor of Nagasaki Ken. In Article 218 of the Code of Civil Procedures, it is provided that facts which are notorious to the Court require no proof. This is what is termed "Judicial recognition" by the prominent Authorities on Evidence. The Court should have recognized that the American Consul for the time being was W. H. Abercrombie; and as this is not a recognition of facts to be based on evidence, the Court of Revision (Supreme Court) should annul the Judgement of Second Instance by the same "judicial recognition". The provision of the Code that " the facts to be considered for the purpose of the decision of the Court of Revision are those upon which the Court of Appeal based its decision" can not be applied to the present case.

The said certain R. S. de Souza who signed Exhibit 9 B was never acknowledged or proved as the American Consul or as one who assumed the consular office. Such a person could never exercise a consul's function. The Court, has however, admitted the alleged fact which could not lawfully be recognized, by referring to the statement of Yamaguchi Naoji. Therefore, there can be no doubt about its being an unlawful recognition.

(11) The land, the subject matter of the said perpetual lease in question, was originally owned by a certain Kosone, and the Repliant had established a perpetual lease on this tract of land for the benefit of the Demandant's father, without compensating the said Kosone for the said tract of land. Therefore, the Repliant assumed the position of the land owner towards the Demandant; but as it stood between the Repliant and the original owner, the Repliant was not the lawful owner of the land. This fact is so strongly established that there is no dispute as to same between the Litigants, as may be seen in the statement of the Demandant(the then Plaintiff) which is quoted in the

Judgement of First Instance as follows;-

" As the Defendant confiscated the said land from the Plaintiff and delivered it back to its original owner, the Plaintiff claims from the Defendant the sum of Yen 22,000.00, the same being the value of the said perpetual lease;"

In the statement of the Repliant (the then Defendant) it is mentioned as follows;-

" Upon default of the rent by the Plaintiff, the Defendant communicated to the American Consul; and the said tract of land had been confiscated from the Plaintiff and been delivered to the original owner, after the said title deed had been cancelled by the Consul. Therefore, the Plaintiff's claim is without ground."

These statements are also quoted in the Judgement of Second Instance. From this it can be seen that the Repliant had confessed that there was an owner of the said land in question other than hte Repliant himself. Without taking any adequate step to purchas purchase the land from its original owner, the Repliant established the lease in perpetuity on the said tract of land of which he was not the owner; hence came the natural result to the effeft that the Repliant could not perform his obligation to let the Demandant enjoy the said lease in perpetuity.

The fact that is bound to bring this natural consequence is acknowledged in the Judgement of Second Instanee, and is also one of the principle reasons for instituting the pre present Demand for Revision.

The Court of Second Instance acknowledging this fact, on the one hand, rendered the decision, on the other, to the effect that the claim of the Demandant is without grounds; hence the Judgement is accompanied by contradictory reasons.

Definite Application

For the foregoing reasons, the Demandant applies for the full annullment of the said Judgment rendered by the Court of Second Instance.

Supplementary Document.

One Power of Attorney.

Presented

to

The Supreme Court of Tokyo,

this 29th day of April, 1902.

Sato Hakuai, Barrister-at-law,

Process Attorney of the Demandant

Fred. B. Lake of Nagasaki.

TRANSLATION.

Decision of the Supreme Court.

Demandant: Frededick B. Lake, of Nagasaki.

Process Attorney: Sato Hakuai, Barrister-at-law.

Repliant: Nagasaki Prefectual Government.

Its Representative: Arakawa Yoshitaro, the Governor.

Process Attorney: Ishibashi Tomokichi and Egi Chu, Barristers.

Process attorney of the Demandant applied to the Court for a full annulment of the judgment delivered by the Court of Second Instance of Nagasaki on the 3rd day of February 1902 in the claims then pending between the above mentioned parties with regard to recognition of a perpetual lease and surrender of land.

Process attorneys of the Repliant made application to the Court to reject the Demandant's application.

The attending Public Procurator Komatsu Mihomatsu expressed his views.

Decision.

The Demandant's petition of revision is hereby rejected. The Court orders the Demandant to bear the costs of Court re the petition.

The above decision is based on the following grounds;-

(1st Count of the Demandant's petition is quoted here)

Taking this count into consideration, this Court deems that the Court of Second Instance recognized that there existed a contract between the said parties to the effect that, if any default be made in payment of the land rent, the lease ~~should~~ should be rendered void. ~~relinquish~~. It is rendered quite clearly in the said judgment of the second instance that the said Court judged according

to the spirit of this contract and not on the principle of hiring and letting to hire. The Demandant's pleading that the said Court has unreasonably applied to this case ~~of~~ a principle of hiring and letting to hire does not comply with the real meaning of the said Court, and does not therefore stand good.

The said Court based its decision on the above stated default. In view of this, the Court should deem that it is not justifiable to introduce, as the Demandant did, the consular jurisdiction into this matter; and still more so in view of the fact that the Demandant made no effort at the said Court to prove ~~the~~ the juridical systems of the foreign countries. Therefore, that the said Court has made no preference to those foreign systems was not in the slightest violation of justice.

To sum these up, this count of the said petition is without any ground.

(2nd Count is quoted here)

Taking this count into consideration, the Court deems that the plea of the Repliant at the said Court was to the effect that the Repliant has confiscated the said perpetual lease upon failure of the Demandant to pay the land rent for the year 27th Meiji (1894) as it has been pointed out by the Demandant. That the Repliant made communication to the U. S. Consul ~~and etc~~ should rightly be interpreted as a simple statement of the course of the confiscation proceedings. It is a misinterpretation of the Demandant to say that "upon failure of the land rent" is not a plea. Even supposing that the declaration of cancellation of the title by the U. S. Consul was also a plea, a Court is not bound to decide as to the others when several independent means are adduced in support of the defence and one of them is held to prevail, as stated in Article 230 of the ~~of~~ Civil Procedures. The said Court of Second Instance has delivered the judgment ~~s~~ in favor of the Repliant, as the said Court deemed that the Repliant's plea as to the Demandant's failure of paying the land rent amply justifies the said Court to do so. Therefore, it did not necessitate the said Court to give any judgment against the

other plea relating to the cancellation of the title by the U. S. Consul. It being so, the said judgment of the Court of Second Instance is not in contravention of both Articles 230 and 231 of the Code of Civil Procedure, therefore, this count is also without ground.

(3rd Count is quoted here)

Taking this count into consideration, the Court deems that it was a fact beyond all dispute in the Court of Second Instance that the said tract of land rented to the Demandant's father followed the precedent of land rented in the settlement, as can be clearly seen in the quotation appearing in the said judgment of the said Court of the facts stated in the judgment of the Court of First Instance, which reads " there is no dispute between the parties as to the fact that the plaintiff's father had acquired the said perpetual lease by virtue of Exhibit No. 4 according to the land regulations of the settlement". The Court has justly interpreted Exhibit No. 4 to have complied with the provisions of the Nagasaki land regulations to the land rented in the settlement. Especially, the said Court has not applied the said Land Regulations direct to the said lease in the present case, but only quoted it as testimony (Exhibit B No. 10) in interpreting the words "to be tendered mayehiro each year" to have meant " to be tendered before a fiscal year". The wordings appearing in the said judgment will clearly prove this. The Demandant's reasoning in this connection is no more than a mere attack against the recognition of fact which belongs ex officio to the said Court Moreover, we can not say that there was no fiscal year at all before the restoration, although it is true that there was no such fiscal year in those days as we have now, which is at variance within the regular calender year. So, the said Court's interpretation can not be said to be meaningless. The said Court has interpreted "mayehiro" mentioned in the said Exhibit No. 4 as " in advance before a fiscal year", and the exhibit was made in the 22nd year of Meiji(1891). In view of these considerations, the Court deems that this count is not

~~is not~~ accompanied by reasons.

(4th Count is quoted here)

Taking this count into consideration, the Court deems that the said Court of Second Instance has recognized the existence of ~~the~~ a contract between the parties to the effect that the ~~lessee~~ lessee in question shall be bound to relinquish upon default of the land rent, and that the said Court has judged that the said lease has ~~relinquished~~ been extinguished according to this contract. Even if the law requires that any recision of contract should be applied for to a court, this requirement is not to be applied to a case in which there is special agreement between the parties. Therefore, the said Judgement of Second Instance is not in violation of justice; this being the case, this count of the petition is without any ground.

(5th Count is quoted here)

The Court deems that this count is nothing more than a mere attack against the recognition by the said Court of the fact that the said Court had enough evidence to believe that the Demandant's father had neglected his duty to tender the land rent. In a case like the present in which payment of land rent is based on hiring and letting ~~of~~ by private law, there can be no ground for maintaining that a lessor should issue a pay-bill soliciting such payment. As the fact that a pay bill was not issued is not one that is inconsistent with the fact that the land rent had been neglected, this count is also without ground.

(6th Count is quoted here)

According to the said judgement, it is stated that there ~~is~~ are no sufficient grounds to recognize that the Demandant had tendered the land rent. This means that the said Court was not able to read the conviction that the Demandant had ~~th~~ tendered the rent; and the law does not require the said Court to explain why it was unble to read such conviction. Therefore, this count is also without ground.

(7th Count is quoted here)

According to the said judgment, it is stated that the said Court could not recognize Edward Lake as the interested party mentioned in Exhibit B No. 4 who was to pay all charges etc. This count is nothing more than a mere attack against the said Court's recognition of the fact, and is not therefore to be deemed as a ground for the petition.

(8th Count is quoted here)

It is clearly expressed in the said judgement that the said Court had rejected Exhibit A 6 after comparing it with Exhibit B 9, but did not admit the latter as material to be used in establishing the Repliant's contention on the fact, although the Demandant argues it did. This count comes from a misunderstanding of the judgement, and is therefore without any ground.

(9th Count and 10th Counts are quoted here)

Taking these two counts into consideration, the Court deems that it was a recognition of fact on the part of the said Court that the said Court had admitted Exhibit No. 9 B as an official document. The law does not require that an official document, especially of the authorities of foreign powers, cannot be acknowacknowledged as valid unless it has been executed by such authorities, or unless there are some symbols which would indicate the official execution of such a document. These two counts merely attack this recognition of the fact on the part of the said Court, and are not therefore to be admitted as grounds for making the petition.

(11th Count is quoted here)

Taking this into consideration, the Court deems that it is clearly stated in the petition and other records of the proceedings that the cause of the present suit's being instituted by the Demandant was to establish that the Repliant's confiscation of the leased land from the Demandant during the year of 1894 was a breach of contract on the former's part. That the said land was not government land is a fact which was never stated by the Demandant at the said Court of Second Instance; therefore, if the

said Court gave out a judgement in favor of the Demandant on the strength of this fact, the said Court should have done so in contravention of 1st Clause of Article 231 of the Code of Civil Procedure. This being the case, it amply justified the said Court in regarding the claim of the Demandant's as groungless, even if the said Court had recognized that fact.

(The 1st Clause: The Court is not empowered to accord)
(to a party any thing which has not)
(been applied for.)

None of the foregoing counts of the petition have any ground, as per the above definition of this Supreme Court.

Judgment is hereby given according to Articles 72 and 452 of the Code of Civil Procedure.

Given under our hands and seal of the Supreme Court this 29th day of October of the 35th year of Meiji (1902).

Second Civil Division,
of the Supreme Court.

Terashima Naoshi, Presiding Judge.
Imamura Nobuyuki , Associate Judge.
Yagita Naohei, do.
Serizawa Seion, do.
Baba Genji, do.
Kajeshita, Jujiro, do.
Koyama On, do.

Articles 72 and 452 are as follows: -

Art. 72: The party defeated shall bear the costs of the suit, and shall in particular repay to the adversary those occasioned by the suit, so far as they were in the opinion of the Court necessary for the proper assertion or defence of his rights.

Art. 452:- When the demand for revision is held to be unfounded, it is to be rejected .

American Legation, Tokio, Japan.

Enclosure No. 1 with Mr. Wilson's No. 344
of November 24, 1905.

右者「フレデリック、ビー、レーキ」対長田銀次借地権並地上建物賃貸借契約解除等請求事件ニ関シ長崎地方裁判所ニ於テ長崎控訴院大審院ニ於テ為シタル判決ノ謄本ニ相違ナキ旨ヲ証明ス

大正拾参年弐月弐拾日

長崎地方裁判所

書記官 松岡利七

本紙
印紙

印

大審院判事

山口出版

(山口出版)

レーナ」が余先ず着地飛行機ヨリ飛ビ降リ
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タリ飛行士ハ皆ナ飛行服ヲ着用シ
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之り承諾せり仍て
奥印証文如件

大審院判事 [illegible]

[illegible]

[illegible]

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(二)

（山口出版）

十九年。

第十一　上告人ノ主張ハ本件ノ土地ハ上告人
一族ノ所有ニシテ祭祀ノ為メニ存シ
先代ヨリ之ヲ占有シ来リタルモノニシテ
民法第二百八十七条ノ規定ニ依リ
所有権ヲ取得シタルモノナルニ依リ
移転登記ヲ為シ得ベキ旨ヲ主張スルモ
不法ノ占有ニ対シ
ノ主張ヲ為シ得ズ。

第十二　上告人ハ本件土地ハ上告人
一族ノ所有ニシテ祭祀ノ為メニ存シ
先代ヨリ之ヲ占有シ来リタルモノニシテ
民法第二百八十七条ノ規定ニ依リ
所有権ヲ取得シタルモノナルニ依リ
移転登記ヲ為シ得ベキ旨ヲ主張スルモ
不法ノ占有ニ対シ
ノ主張ヲ為シ得ズ。

許権ヲシテ之ヲ摘序
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仍テ上告理由ノ大点ハ判決ニ云ヘル如ク
権ノ主張ノ如キハ石油ト
云フモノハ固ヨリ所有者ノ
許可ヲ得テ採油権ヲ
之ヲ排斥シタルハ不法ナリト
云フニ在リ而シテ原院ハ
上告人ノ為メニ為シタル
証人ノ言ヲ法律上
採用スルヲ得ストノ
理由ヲ以テ之ヲ排斥シタルモノ
ナリ。原判決ニ於テ
上告人ノ為メニ為シタル
証人ノ言ヲ採用セサリシ
ハ法律上ノ理由アリ
トスルヤ否ヤハ暫ク
之ヲ措キ仮リニ
之ヲ採用セサリシハ
不法ナリトスルモ之ヲ

(山口出版)

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(山口出版)

事実上ノ結果考慮
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ノ注文ヲ忘ルコトヲ
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(二)仮ニ上告人カ主張ノ如ク本件
地所ニ付仮処分若クハ
移転登記ノ方法ニ依リ
ノ執行ヲ免レ
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不当廉売ニ該当スルヤ否ヤハ
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主張ヲ
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原
(山口出版)

(三)又実ニ一歩ヲ誤レハ上告人先
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墨カズ財産ヲ現人ノモ空ん
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ヲ上告人ハ自ラ好ンテ仮処

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等ノ諸ノ列挙シ作ラシムベキ
モノトス（ロ）行
第五 上告論旨ハ原審ノ職務執行
モノハ他人ヲ教唆シ之ヲ指揮
シ之ヲ通謀セシメンヘカラサルニ之ヲ為
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ノ和ト異ルヲ以テ判決

(山口出版)

訴なり。上告人ら本件
係地権に基き解除通知
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(二) 原審は、本件土地権
の譲渡につき地権者
たる上告人らの承諾
なきことを理由として
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(三) 解除権の行使に

ヲ存ズルヲ以テ之ヲ省ク

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(一)本上告ハ原告ニ於テ自ラ仲裁裁判ヲ
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キモノトス
(三)裁判ノ公平ト云フハ裁判ヲ為ス
ニ当リ裁判官ハ当事者ノ何レニ
モ偏頗ノ心ヲ有スヘカラサルモノ
ヲ云フ

第四ノ税ハ法律ヲ以テ毎年之ヲ定ムヘキモノトシ之ヲ永久ノ地租ニ変更スル法律ハ現行地租条例ニ掲ケタル地価ノ総額ニ対シ百分ノ二・五ヲ超エサルヘキコトヲ定ムヘシ（解釈文ニ曰ク此条ノ「百分ノ二・五」ノ字ヲ書カサル時ハ現行地租ノ百分ノ二・五ヲ超エサルヘキコトヲ定ムルモノトス）

（二）地価ニ修正ヲ加フルノ必要アルトキハ地租条例ヲ改正スヘシ（解釈文ニ曰ク此条ハ地価ノ修正ヲ為スヘキ時ハ地租条例ヲ改正スヘキコトヲ定ムルモノトス）

（三）荒蕪地ニ対シテハ地租ヲ免除スルコトアルヘシ

者ニ於テノミ施行セシヤ不ヤ左リ
トリハリノ之ヲ施行スヘキ五ノ
方法ヲ之レニ供シ以テ防御ノ目的ヲ
貫徹セシムルニ在リ而シテ海岸
者ニ於テノミ施行スルノ可否ハ
於テノ当否ニ依リ定ムヘキ
コトヲ記シアリ之ノ
的ノ為メニハ直チニ実施ノ効
果ヲ挙ケサルヘカラサルコトヲ
ニ注意セラレンコトヲ望ム』ト
仍テ左ノ如キ攻撃及防御ノ方
法中ニ一個ノ通則トスルヲ得ス

(山口出版)

隊地ノ五現人ノ動ク次第ニ依テ
地形ノ如何ニ拘ラス直ニ来ル様
ニ照会シ云々』ニアンハ仮令ノ
動ク言ニ非ス始メヨリ失機ノ動
ニ非ラサルトノ意ニアラス失機
ノ弾ノ事ノ字ノ下ニ句ノ点ヲ
ノ如ク移シテ後ノ事ニ照会ニ非
ラサル等ノコトアリシコトヲ除
去セントスル迄ニテ現ニ前ノ兵ノ
差来(イ)ト云フ用ヒ例ニ倣ヒテ
病院ニ在ル者兵ハ地代前渡
ハ失機ニ非サルヤ五名ハ当

判決の主文に掲げた
ごとき宅地であり
且つ上告理由として
挙げる所は
民訴法第三百九十五条
に該当しない
事由であつて
本件上告は
これを棄却すべき
ものとし
裁判官全員一致の
意見で
主文のとおり
判決する。

裁判官 石坂修一 裁判長裁判官 横田喜三郎 裁判官 入江俊郎 裁判官 長部謹吾 裁判官 河村大助

律と修とすることが出来ず
收せらんとすれば和法を
亦混ずる如き法上生人ひ而堂と
斯の如き和法り行ふもの
祖上生人…修り上生人と契約
是等其契約上生人
人天趣り生ずるとき此人
実位より生ずるとき
す。而して上生人…常ならず不
定なるが如く畜類より生ずるも
も亦た邪法と共に亡ぶべき
そすの。上生記由ぎ畢

新土地代価概ね公債証書ヲ以テ之ヲ
上ラントノ権利ハ当然消滅セシモ
ノニシテ特ニ必要ノ場合ノ外ハ之ヲ
セラレサルモノト云フヘキノ故ニ
官権ニ依リ公法的没収ノ為
ニハ本件許可ノ取消ノ事
例ヲ以テ上告人ノ未
タ法律ノ利用ニ来タラサル一法
律ニ依リテ存シ又ハ其ノ後リ没
収セラルヘキモノニアラサル限リ
ハ本件ニ関係
ナキモノトス。

十告人（松浦四郎）ハ和睦ノ間ニ
対シ本件事点ニ関シ本件契約
書ノ前文ニ云々ノ前事ヲ取リ拾ヒ
ノセルヲ右ノ中ニ前事ヲ入レントハ
前事ヲ定メリシ居ラサリシコト
ヲ以事若カ暗黙ヲ以テ
右ニ云ヒシ上告人（松浦
海中ニ於テ云々ト云ヒ若クハ
シノミヲ以テ審理ヲ
兵庫ニ於ケル事実ヲ
而シテ原判決ニ是等ノ事実ヲ
対シ和睦ノ契約解

（山口出版）

述ふるの事実及前事者を挙ケ事実ノ
ヲ排斥スル事実之ヲ否認ス。控訴人ハ
原判決ノ陽ケ条ノ事実及市街図ヲ以
テ其事実ヲ証セントシ弁ヲ提出セリ
仍テ上告理由ノ一点ヲ按ルニ民法
第百条ニ永代借地権ハ一種ノ不動
産ニシテ此不動産ニ付事実ヲ以テ
従テ之ヲ差押ヘ収去スヘカラサルモノナ
ルニ原院カ被告官庁ニ於テ之ヲ取
上ケタル不法ナリト為シタルハ不法
ナリトスルノ趣旨ニ外ナラズ。仍上告論旨ハ
理由アリト為シ原判決ヲ破毀シ上告

十年
印紙

明治廿五年壹月

[illegible]

永代借地権第四地券渡方願書

[illegible]

[illegible]

[illegible]

一五印紙

許可申請書仕様

本籍長崎県士族木原時次郎

出願人ノ族ノ称族ノ委任ヲ

一大審院ノ免許ヲ受ケ明治二十五年

上告事件ニ付代言人ヲ命ゼラレ

度ノ件

申請仕候ニ付テハ

明治五年七月

長崎裁判所

印

一銭印紙

許可状再交付申請

本籍長崎県北松浦郡小佐々村大字小浦郷
何番戸　何某

右者長崎県知事ノ許可ヲ受ケ大正何年何月何日何事
上告事件ニ付上告人ヨリ何ノ許可
ヲ得タルニ付テハ
左ノ許可状ヲ交付セラレ度此段申請候也

大正何年何月何日

長崎県知事　何某殿

李鴻章 印

永代借地権ヲ取得シ爾来安全ニ所有シ来リタルニ
昭和十年中被告ニ於テ一ヶ年ニ金壱千円ノ地代ヲ
以テ右借地ヲ賃借シタル旨ヲ申出デ之ヲ拒ミタル
ヲ以テ訴ヲ以テ右借地権ノ確認ヲ求メ尚ホ予備的ニ
右地代ヲ以テ賃借権ノ設定ヲ求ムト云フニ在リ
被告代理人ノ要旨ハ原告ノ請求ヲ棄却スル
旨ノ判決ヲ求ムト云フニ在リ
原告代理人ハ甲第一号証ヲ提出シ証人
モトヨシ若シクハ証人ヒラヤマ某ノ訊問ヲ求メ
ヘタリト述ヘ被告代理人ハ甲第一号証ノ成立ヲ
認メ原告代理人ハ甲第一号証ノ成立ヲ認メ
(山口地方版)

記

別紙閲覧申請書

昭和弐拾五年弐月弐拾弐日ニ閲覧シタルヲ以テ
其ノ事業ノ為メ再ビ閲覧ヲ求ム
依テ別紙閲覧申請書ヲ添付シ閲覧
ノ許可ヲ申請ス

昭和弐拾五年参月弐拾日

住所
氏名 印

春慶寺事務所

殿

ノー

[illegible]

[illegible]

[illegible]

委任状

通達

大審院民二第一号

立分しめんを	文通達者
一大審院ニ立会ヲ以テ左ノ通リ決定シ地方裁判所ヲ経由シテ昭和二年一月一日ヨリ施行スヘキ旨ヲ通牒ス	竹内地裏

昭和二年十二月廿日

大審院長 横田秀雄

二四 九二号

通達年月	通達事項	他人ニ委任セル事由
昭和二年十二月廿日	別紙ノ通	本人老年ニ付代理人ヲ以テ

昭和二年十二月廿日

東京区裁判所長 佐久間重吉 印

東京地方裁判所長 佐久間重吉 印

(四五四)

大宮座事務所

申請書

一 乙第一号ビーレート計量器取引証明
検査願地方庁迄提出上当事件ニ付
一 上告趣旨書ニ記スコト
一 上告ノ申立ハ判決表示ノ如クコト
一 一審庭丸五号ノ記載ニ依ルコト
一 当事件ノ理由ハ別紙ニ記スコト
右事件ニ関シ五日ニ亘ル神田町上
申ス

明治三十年 月 日

上告人

住所 姓名 印

印

（山口出版）

例ニヨリテ前約ヲ終結スルトキハ
必ズ更ニ約ヲ締結シ時勢ニ適シ
セラルベキモノトス地料ノ
前約ノ如キモ亦タ之ニ従フヘキ
指定人カ之ヲ看做スヘキモノニシテ
移轉人カ其ノ前ニ地ノ
リシ年ヲ前ニ於テ地料ノ徴収ヲ為
サヽリシトキハ之ヲ地料ノ前約ノ
如ク定ムヘシ
第三十七条 地料ノ契約ニ於テ
ノ変更ヲ為サヽルトキハ其
ノ指定人先ツ借地料ノ前約ノ
如ク右ヤリ方ヲ指定先

借地料ハ
物ヘシトアル文句ニ拘ハラス毎年ニ定額
ノ地料ヲ納メ来リタル者ニシテ若シ之ヲ怠リ
又ハ家屋ヲ改造シ増地ヲ為ス等ノ場合ニ
於テハ地主ニ解約ヲ為シ得ルモノト解釈スルヲ
相当ト認ム
地料増額ニ付テハ第一ニ地主ノ意思ニ委スヘキモ
第二ハ都テ物価ノ騰貴ニ伴ヒ地代ハ毎年ノ
如ク増額スヘキ筈ニシテ本年ハ来年
ノ如ク前年ニ比シ幾何ト云フ様ナル定額ノ増
ス可キ筈ニアラス(但シ特別ノ事情アル場合ハ此限ニアラス)
第三ハ借地人ニ於テ地主ノ承諾ヲ得テ
其地上ニ建物ヲ新築シ又ハ増築ヲ為シ
タル場合ニ於テハ地主ハ其建物ヲ買取ル
カ又ハ地代ヲ増額スヘキ事ヲ請求スル
ヲ得ルモノトス

そノ相次ヲ了ラセラ

付与セ表

委任状

住所

上告人 阿部次郎

右当事者間ノ頭書事件ニ関シ

弁護士 [illegible]

[illegible]

大審院長 [illegible] 殿

印

次ノ橋本中原先ノ海辺中神先ガ
「お花ふり」ト称スル者、是ナシ
ヲ乞ヒ祈祷ノ際、御祓ヲ用ヒ
先ヲ届ケ、ヨリ依頼ヲ受ケ
ノ際、祈祷ヲ行ヒ、仏ヲ
名ヲ唱ヘ、ヨリ祈祷ヲ受ケ
ヲ乞ヒ祈祷ヲ行ヒ、仏ヲ
ノ宣ヒヲ唱ヘ、ヨリ祈祷ヲ受ケ
ハ、ヨリ祈祷ヲ受ケ
ト」ト称シ、而シテ次ノ橋本ニ原境ヲ和次ノ
種ヲ行ヒ、即チ神ニ供ヘ、之ヲ
第一神ニ供ヘ、ヨリ
白ヲ

何人も其の所有の事実を争はざるときは何等の効力を生ずることなし
仮令ひ其の事実の存在を認めざるも其の事実の存在を証する
に足るべき証拠ありと認むるときは裁判所は其の証拠に依り
事実の存否を判定することを得
裁判所は当事者の申立てたる事実に付ては其の申立てたる
順序に従ひ証拠調をなすことを要す
裁判所は当事者の申立てたる証拠に付ては其の申立てたる
順序に従ひ取

200

先代地料石納御免ノ法ニ準ジ純然
土地ノ如ク地価ニ拠リ石法ヲ以
賃与スルヲ可トス（レート略）其ノ父
祠ハ其矢ヲ以テ建ル者ヲ遠ト為リ人遠ヲ
トスルヲ永代借地権者又ハ手続料ノ第
徒人ヨリ毎年金ヲ以テ賃料ハ（レート略）
ズリヲ（レート略）又ハ其建人ヨリ百
年ヲ星限テ賃料ヲ納ムルヲ可トス
右ノ外ハ地料相当ノ金額ヲ
ト雖モ其主トスル処ハ地料ノ如キ者ノ
ト雖ノ法ニ準ジ地料ノ如キ者ノ
張ヲト雖モ地料ノ如キ者又ハ其建
地料ノ如キ者ハ地権者

仕そこと云ふの事実ヲ陳述スヘキ旨ヲ
料ト為スヘキヤト云フ時ハ別段ノ事ヲ掲ケ
モ更ニ其事ガ何等ノ理由ヲ基ヒサルカ如キ
ヲ要スルヤハ理由不備ノ責ヲ免ルヽ特
裁判所ノ直時ハ裁判ノ申立ヲ基ヒサル
裁判所ニ於テ当然為スヘキ事ヲ為サヽル
勿論ニシテ訴ヲ却下スルノ言渡ヲ
要スル地ヲ相俟ツテ始メテ上告ノ
ヲ以テ之ヲ棄却スルノ判決ヲ
ヲ以テ司法ノ職権ヲ服セシム
ヘカラサルモノトス

上告理由ノ要点

十分カ有ヨリ油粕ヲ入レ下ス此
事実ハ油粕ノ価格ニ関係ヲ有スル
油粕カ多ク有ル人ハ油ヲ多ク
絞リ出ス事ヲ得ル人ハ油ヲ
絞リ過ギタル油粕ヲ買入レ
又ハ油粕ヲ買入レ油ヲ絞リ
出ス事ヲ得ル故ニ油粕ノ価格
ハ油ノ価格ニ関係ヲ有スル事
ヲ知ルヘシ又油粕ハ肥料ニ
シテ其効力ハ十分ノ
一ヲ減セス故ニ油粕ノ価格
ハ油ノ価格ニ関係ヲ有スル事
ヲ知ルヘシ
(山口出版)

既被告ニ之ガ収受ヲ指シ実収セサリシ事実ヲ
仰委サレトノ指示ノ下ニ被告ニ対シ原告ニ之ヲ
非作為ニ犯由ヲ説明シ其ノ際一二五号
河及ビ仏人ノ河ニ二トロートルヲ以テ
指示ノ先代ノ存ノ如キ事実ヲ
前ニ被指示人ヘ法地料ヲ指定シ
元年実ノ陸河ニ資料ヲ原告ニ
増ヲ出河ノ如キ多数ノ
河人ニ法ヲ定ムルカリ解
由ヲ生ニ成立ニ
実ニ河ノ如キ存
ルヲ以テ実ガ海ニ関係

全体事ト田地ヲモ毛ガ之リ以テ原告
先代又ハ其田地ノモノト共ニ生ラレ育ツテ
ノ如果テラト存リ以テ必ヤ原告先
代ヨリ田地ノモノヲ生ラレ事実ノ如
クヲ以テ原告先代ヨリ遺贈
ヲ受ケト陽陸ヲ現田ヲ以テ
其ノ院ニ之リ以テ直チニ原告先
代カ係地料ノ納入ヲ滞ル事ト認定
シテ現田ノ不備ヲ免レス
上告理由ヲ以テ
原告先ヤン実弟「エドワード・レーキ」ガ
原告先代ノ為メニ地料ノ納ヲセントシテ

（山口出版）

濠地利亞洪噶利帝之義務之ヘシ又同
ニ若濠地利亞洪噶利事變歟係
逃走セシトキ或ハ日本ニ逋債アリ
名ノ時ハ濠地利洪噶利長官ニ
對シ逋債ノ償還ヲ爲サシムル
ヘシト雖モ此條約ハ永久ノ
即チ西暦千八百五十四年二月二十日ニ
（神名ノ條約ニ付ノ條即チ是ナリ）
ニ往ニ來ヲ面之シテ均霑シ
又雨ノ來ル往ニ依テ
事務取扱ノ孫ヲ任ス
政四年五月二十六日即チ西暦千八百七十一年七

（山口出版）

別紙ノ如キ世界郵便ノ取上ノ為メニ英佛
独関係ノ解除ニ意ニアラサルモ疑ノ
余地ナク而シテ改正保約ノ実施前ニ於
テ今ノ如キ取上ノ特利ヲ許スヘキ訳ナ
シト雖モ仮ニ之ヲ実行スルモ保スヘカラ
ス改正保約ノ実施前ニ締盟各邦共ニ此
特権ヲ帝国ニ行フヘシト云フカ如キ事
物ヲ銘ス義務アリヤ否ヤハ深ク論ヲ俟タ
ス即チ西暦千八百七十五年十月十日ノ
条約第五條ニ依リ各邦ハ其郵便ヲ取扱
フノ義務アルヲ以テ之ヲ
世界郵便ニ関スル保護ニ同シク若シ其人ヲ
澳地利及洪牙利ニ対シ許諾アラハ

借り求めて存り
原告相次及原院相次引用の各書
相次と掲示の「甲」各号証の各間に牽中
事実少も矛盾なしハ左の如し
一被告ハ原告先代ヲ招キて長女幸ヲ嫁セ
シ迄ハ時々生活上の援助ヲ為シ居リ
永代借地権ヲ許サしめん事
一昭和二十五年中原告先代ハ帝国内ニ居リ
林ヲせざりしかん事
一昭和二十五年中被告ハ原告先代ヲ以テ永代借地
地料ノ約ニ反シ且ツ無断ニテ家屋ヲ
対シ永代借地権ノ宣言ヲ為サしめん

(山口出版)

地料ノ拂渡ヲ了スルニ對シ其拂渡ヲ拒絶シ
タルトキハ約定ノ期限ヨリ合衆國政
府ニ其地料ノ納ムヘキ年ヨリ千ニ百
年ニ對シ毎年百分ノ六ノ利子ヲ追拂フヘシ
第三條 合衆國政府ハ一旦返ス永代
ノ法求ヲ爲シ合衆國政府ハ其法求ヲ
施行スヘキ爲メ其法求ヲ受取ルヘキ
ノ全權ヲ有スル事ヲ前ノ日ニ於テ
相定メ置キ其事ヲ前記永代借
地ノ法欽定ノ所有ニ返還シ以テ便松ノ
代價ニ代ヘシム 本件ニ付テハ前述ノ如ク被
告カ答辯ヲ爲シ原告ノ主張ヲ否認
シ且ツ永代借地權ノ爲ニ訴訟ヲ爲ス千八百

(山口出版)

係争ノ事実ハ概ネ原告ノ主張ニ副フ
先ツ原告ノ亡父ヨリ上告人ニ
対シ明瞭ナラシメ難シ
原告ノ先代ヨリ
十三年前後千八百八十八年ヨリ
知事ノ今言フ長由市山留根町
松ヲ造船所及船渠
ヨリ始メ地域ヲ
ヨリ前ニ根町ニ
并ニ知ラシメ地域ヲ
前記地域ハ元ノ留根業所有ナリシヲ
告人原告ノ永代借地権ヲ設定セシメ

上告人 相沢忠洋

前記当事者間（長野地裁昭和三年（ワ）第二〇号）永代借地権確認請求事件について昭和五年二月二日言渡された判決に対し上告人から全部不服であるから上告する。

上告の理由は不服の理由書記載のとおりである。

上告人 相沢忠洋

十四 印紙

十四 印紙

十四 印紙

上告状

上告人　控訴人　原告　[illegible]

長岡孫兵衛　長岡市大字[illegible]

[illegible]

[illegible]

上告状

上告人　控訴人　原告の

長田弥兵衛　長田市大池百拾五番地

右代表者全権事務取扱

フレデリック・ビーレー

被上告人　被控訴人　被告

横浜市本町三丁目弐番地

佐藤与一

右代表者全権事務取扱

長田弥兵衛

荒川彦右衛門

明治三十五年四月二十九日

永代借地権売渡請求事件

上告状

上告人フレデリック、ビーレー

代理人

佐藤博愛

大正参年	三五ノ九二
第二号	二一一七

印紙 十七

印紙 十七

五十銭
印紙

宮様

意を得ず候へ共実家迄へ行まりを無
之ては如何かと存じ候ても断候

昭和　年　月　日　田中留元　(印)

宣誓書

私儀今般一般志願兵ヲ命ゼラレ
入営スルニ当リ謹ンデ誓ヲ奉ス

昭和　年　月　日　　姓名　　印

宣誓書

良心に従い、忠実に上官の命令を服務
を守ることはかたく守ります

昭和　年　月　日

氏名　　(印)

宣誓書

良心に従い、厳正公平、不偏不党且つ
法令を擁護し、且つ職務を
誠実に行うことを誓います。

昭和　年　月　日

　　　　　　　　　　　　　　山下

15

信楽者

急ニ依テ無断ヲ以テ御願
ズミ被下度ニヨリ御届

名古屋市ヨリ来テ

坂本昌二 印

一

印

印

印

三三年
一七八号
十年
白新村

送達

一、

[illegible]

[illegible]

[illegible]

送状

一、物件表通			
右御送付申上候也	受取書	受取書	受取書
昭和弐年壱月弐拾日	昭和弐年壱月弐拾日	昭和弐年壱月弐拾日	昭和弐年壱月弐拾日
東京控訴院			
書記			
帝国土地株式会社			
御中			

前記任期ニ於テ決シテ之ヲ執行シ又ハ
之ニ関シ自己ノ自由意思ヲ以テ
辞シタル事実ナキ事ヲ誓フ
宣誓ニ就テハ誠実ニ之ヲ遵守シ
ソノ義務ヲ尽スヘキ事ヲ誓フ
仍テ千八百参拾七年百参拾弐神奈川県五拾弐
伊勢地立郡北方今泉田村事ニシテリヤス、
ステーヘル氏ハ本官ノ面前ニテ本人歩跡シタル
コトヲ公認ス

北方今泉田村事
シテリヤス、ステーヘル署名

右ノ署名ハ
明治参年百弐拾壱月

地図左衛門 印

印

印

印

(第四回出版)

三ヶ年ニ付金二十五円

別紙書面

第十号ノ

地所ノ表示

（前略）

一、地所ノ名称 和田耕作

一、所在地 字堀ノ内弐百拾番地

一、地目 畑

一、反別 壱反歩

一、賃貸期間 明治四十四年ヨリ向フ拾ヶ年間

一、賃貸料 金弐拾五円

（以下略ス）

別紙ノ通リ

相違無之候也

明治四十四年一月十六日

[印]

印紙
印紙
印紙

仮　入　所　証

本籍	住所	職業
氏名	年齢	身分
入所年月日	入所事由	引渡人
退所年月日	退所事由	受取人

メヤス
印紙

印

印

印

仲人申出書

仲人	山之内	印	
住所	岩手県和賀郡	年齢	明治 年生
住所	岩手県和賀郡	年齢	明治 年生
住所	岩手県和賀郡	年齢	明治 年生

仲人（コレヲリフヒーレーヤ）ヲ依頼スル事ニ付キ申出ス

明治 年 月 日

岩手県和賀郡 山之内 村長

岩手県和賀郡 山之内 村

金左

指定（コレデリック、ビーレーキ）ヲ指定シ委
任事業ノ為メ同人ニ金弐千円ヲ交付シ
ニ対シ委任地ニ於ケル地方税ヲ賦課
最寄消防組ヨリ組合費ヲ徴収スル事ヲ
百弐拾弐ト定ム

右ノ条件ヲ承諾シ
委任状ヲ差入ル
ヲ以テ
委任状ヲ交付ス

委任状

杉宮政（印）

三八年
一三九五ノ三

送達書

一、送達ヲ受ケル人
住所

本書ノ送達ヲ受ケル人ハ
左ノ通リ相違ナキヤ
署名捺印ヲ求ム
年　月　日
右送達ヲ為シタル所
年　月　日
書記之印

左ノ通リ相違ナシ 捺印ヲ求ム	送達ヲ受ケル人 署名捺印	書記之印
送達ヲ為シタル所	送達ヲ為シタル年月日	送達ヲ為シタル人 中村雄吉 印

印紙

印紙

印紙

印紙

送達状

印紙

印紙

依テ別紙ノ通リ来ル廿四日第三回ノ
予定ニテ十時ヨリ挙行ス
昭和四年参月廿日

西幸記毛詩箋之順次

祖母ヶ懐

祖母ヶ懐ハ、
[illegible]
[illegible]
[illegible]

出役

明治参十二年七月七日

右相違無之候也

利害人見証氏名

右拇指

印

永代借地権ニ関スル法律

第一條　借地権ノ存続期間ハ堅固ノ建物ノ所有ヲ目的トスル場合ニ於テハ之ヲ三十年トシ其ノ他ノ場合ニ於テハ之ヲ二十年トス

本件ハ此ノ之ヲ適用スベキ事件ニ非ズ

第二條　借地権ノ存続期間ハ前條ノ期間ヨリ長キ期間ヲ定メタルトキハ其ノ期間ニ依ル

主論

第一審ニ於テ被告ノ主張ヲ容レ永代借地権ニ関スル法律ヲ適用シ

右ノ通リ判決シタルハ不当ナリ

第一審ニ於テ被告ノ主張ヲ容レ永代借地権ニ関スル法律ヲ適用シ

右ノ通リ判決シタルハ不当ナリ

(山口出版)

二才以ノ分

許可第號届

三三年ノ方二ノ三号

被指許人

長男ノ妻事

昭許一ノ

生産、業務ニ三年ノ方二ノ三号事件被

指許人ニ昨年十月一日ヨリ要務ノ

為事ニ關係ヲ有シ居タル者ト云フ

ハ往ノ方許可事件ノ承継ヲ受ケ

ハ御ノ

昭許一年三月於九日

三名一日共有

第八〇号

一ノ印紙

三三年ヨリ二六二年ノ

沼江必親委任状

唐沢弁護士右ノ友吉ヨリ請求代理人ト定メ
左ノ株券ヲ委任ス、

一、金拾株券壱通 壱万円ニ付キ壱票ノ割合ニテ
二千票ノ議決権ヲ有スル株券ニ付
切手沼江川為

右委任状ノ如シ

明治三十九年二月十五日

委任者 沼江必親 印

三九年二月二六日

委任状

一、弁護士 [illegible] 氏ヲ代理人ト定メ下記
[illegible] 事項ヲ委任ス

記

一、[illegible] ニ対スル [illegible] 地裁 [illegible] 事件ニ付
[illegible] 一切ノ件

一、[illegible] 事件ニ付 [illegible] 物件
[illegible] 物ノ仮差押ノ解除ニ付 [illegible]
[illegible] 物ノ仮差押ノ執行ニ付 [illegible]
[illegible] 一切ノ件

右委任状ノ件

昭和 [illegible] 年 [illegible] 月 [illegible] 日

(Sgd) Fred B. Lake

収入印紙

委任状

弁護士 岸田旭之 ニ左ノ事件ノ代理ヲ
委任ス

一 相手方当裁判所ニ
一 訴状ヲ以テ提起シタル貸金
一 訴訟物ノ価額 金四百円
一 委任ノ権限 終ノ件ニ付キ和解取下
控訴並ニ復代理人ノ選任

右ノ通リ委任状ヲ作ル

昭和二年八月四日

フレデリック・ビーレーキ

(sgd) Frederick Lake

寸一寨仁之分之提田之

嘉慶廿年八月吉日　立

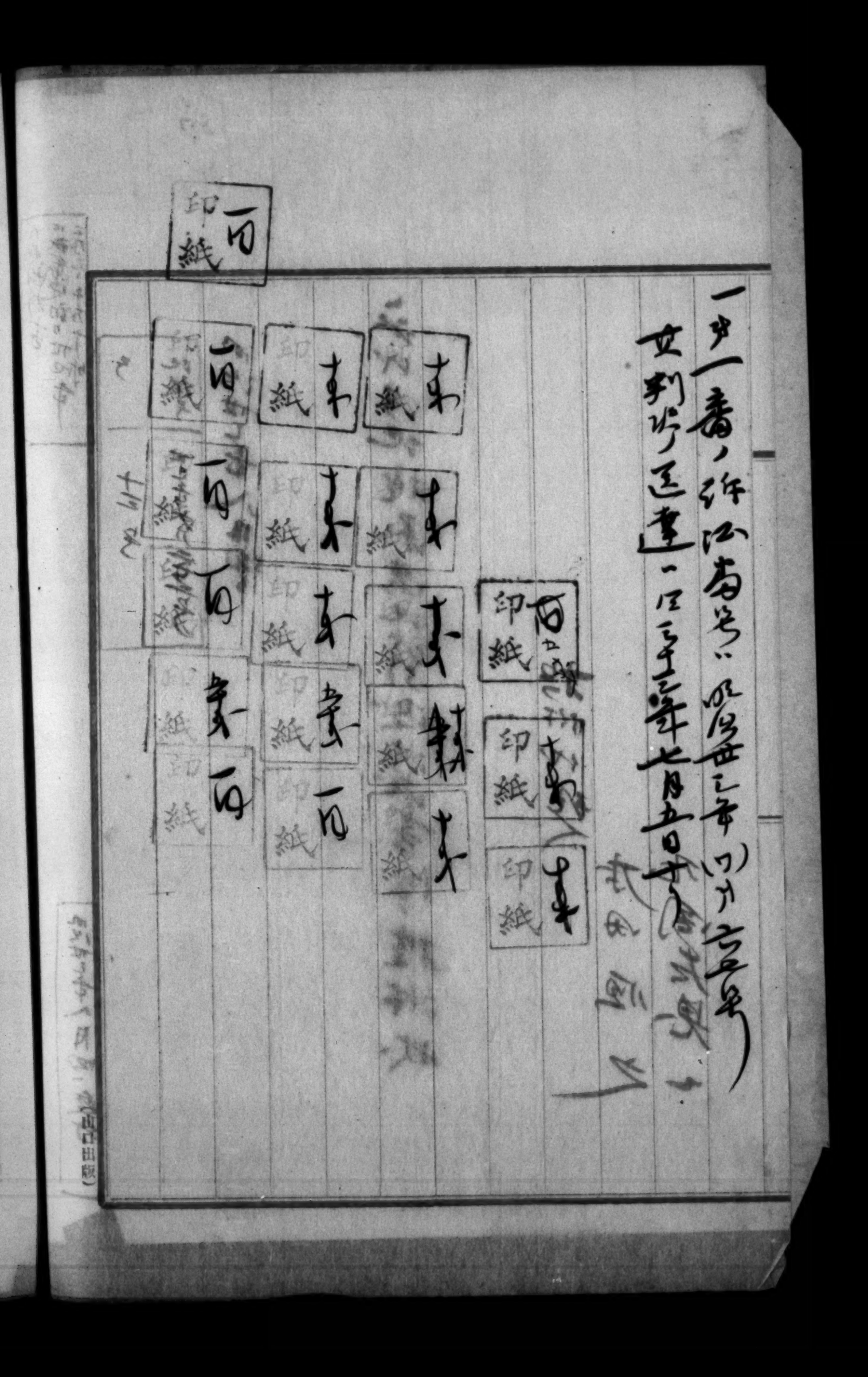
左岡右泉　印

本田頂之　印

嘉慶廿年

筆耕者刘春人見恒武叙

(山口出版)



昭和三十年二十三号記録目次			
本訴答弁状	一		
控訴状	一		
準備書面	五		
九	七		
証拠申出書	七		
本訴答弁書	一〇		
控訴状訂正申立書	一三		
控訴状訂正申立書	一五		
控訴人準備書面	一八		

期日	年令	病名及症状	治療期日	治癒	死亡
世四年 三月四日午時	世四年二月十五日ヨリ	世四年九月十六日午時	一年三月二日二時	一年四月 日	要方
			三五年一月七日一時	世五年二月三日	棄却

抗告訴訟

訴訟物の価額	事件標目	原告	被告	裁判官	裁判所書記官
三千百四万二千二百二十二円	永代借地権存在確認請求事件	甲野太郎	乙山一郎	裁判長裁判官	甲野太郎
				裁判官	乙山一郎
				裁判官	丙川二郎

裁判官	裁判官	裁判官	裁判所書記官
甲野太郎	乙山一郎	丙川二郎	甲野太郎

三三ノ外 六七号

送達書

一印紙 一通

[illegible]

[illegible]

[illegible]

三三 ㄱ号 ㄴ号

送 状

門治廿二年
メルロの条ヲ
主意ヲ以テ
一尺ヲ要ス 条約

許可状 送達状

三十七年四月二日発

第六フレデリクビーレー4
旅部三
同ノ家内使用権第四
地方引渡請求事件

添書ノ通リ第四件送達ヲ嘱ス
別ニ同ジ本庁ノ嘱託ニ依リ
訴ノ為送達ヲ嘱ス
ヲ以テ嘱託ス
ヘキ旨ノ命ニ依リ此段
嘱託ス

印

本庁判事
[illegible]

東京区裁判所
旅部一ノ庁

本状ノ著ク	本状ノ著ク	本状ノ著ク	本状ノ著ク
相違ナシ	送達ヲ	送達ヲ	本状ノ著ク
本状ノ	本状ノ	本状ノ	本状ノ

昭和二年
十月八日
登記ス
一金弐千圓

二年(1)第三号

送達状

一、訴状副本　一通

本案ニ関スル和解期日ヲ左ノ通定メラレタシ

昭和二年十月十日

[印]

[illegible]

[illegible]

[illegible

（印）

（印）

（印）

印紙

別次の原告方申請
事件大阪地方裁判所
委任（じょういじょう）ダブルキーレイヤ
委任 フレデリック・ピーレーキ

被告 森喜重 服部一三

原告より昭和二十五年
金壱万五千円也 借地権 並地上
石灰約三十三噸 宣告 お成せ 判決の原
原被告金壱万五千円及申請也
昭和二十五年二月二十日
被告法定代理人

辞

印　印　印

印紙 印紙 印紙 印紙 印紙

印

印

印

印

印

（山口県）

印紙

不許

沼松河東主

三二ノ外 亡年七年

長岡市外深町坂井善次方

坂庫二次

左事件ニ付テハ前記ニ依リ迅速ニ左事項ハ御

御通知申上也

記

一、事件ノ要旨

一、被害者ノ氏名住所

一、犯人ノ住所氏名年齢職業及犯人ト被害者トノ関係

一、犯人ニ対スル希望ノ有無

一、其他参考ニ供スヘキ事項

以上

U.S. Consulate

Nagasaki May 20, 1889.

Recorded in the Land Records

Book, folio 250.

(Sig'd) John M. Birch

U.S. Consul.

先文前令拔れる本
市地許容渡必用と候者也仍件

昭和十二年七月一日

千葉県知事 [illegible]

以上書ノ通シ地面申ある通相違無之候
たる至——

一 ヒヨーシダフテー 兼借渡ノ手形ある由借ノ者より
レーキ
地代年賦ヲ以テ済シ度旨ヲ以テ願ひ出たる時ハ
年次ノ前願ヲ出ル至——もしを義を
名ろの又ハ奉行并ニ諸ニ於テ即今金ノ
以上ヲ以テ相極ノ書ヲ調ヘさる時ハ
以上書ノ面ニ対シテ地面申の通相違も

一 国のコンセッションへ申出差許済へ於いて
双方の地面へ各細相等書載れ添上
一 仕いたすべし若その手続おくり日に
他人へ渡るされいてハ以後ハ無効且
地面中の建物ハ買取許へ取上至
一 借更一ヶ年金地料又ハ借地の内を
引かるるも前文年数ハ年の取扱を更て
他人へ譲渡るの又ハ日本の人へ貸渡に於ても

中出ス書類の取扱方ヲ以テ公平の取扱ヲ
為シタルヘキ旨ノ人等ニ対シ許容シテ
居留地内ノ地所家屋等ヲ借受ケ
住居営業ヲ為スノ義ニ付テハ
従前ノ通リ取扱セ且右ノ法ニ依ラサルヘシ
一右ノ者ノ法則ナルヲ以テ
一借地ノ内ヲ引払ヲ他人ヘ譲ル時ハ「ヒヨーヒダブリキ」
レーキ又ハ諸建具等引取ル由諸ノ者ヨリ

一 法則左ノ如シ

一 借地ノ儀ハ其本人ヲ定免置ベシ且

兵営ノ免ニ依リ外人ヘ譲渡

ヲ許サヽルヲ以テ其他ノ者ヘ

モ決シテ譲渡ヲ許サヽルヘシ

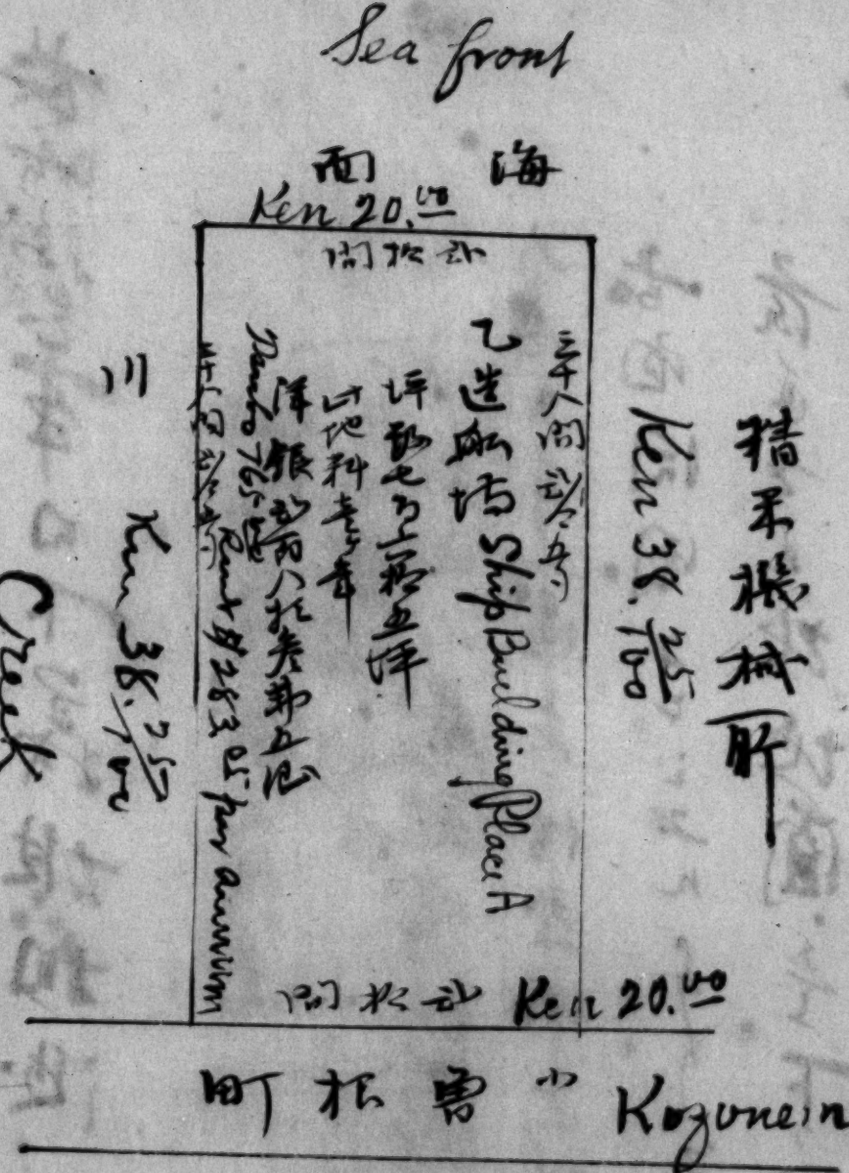
一 地所ヲ売買ノ際ハ双方ノ役人ヲ会場ヲ

定メ其ニ於テ且借地ノ名ヲ引直サヽル人ヘ

渡ス事ハ其売買ニ立会ヒタル役人ヘ

其事ヲ

一地代百坪ニ付壱ヶ年メキレコドルうんぢ拾七枚の
割合を以て当四月一日より来ル巳年迄の借地料
ドルうん(ドル)おゐて弐拾五枚相納ム可事
一地代ハ毎年十一月(レーキ)ニ至り(シュージ)ニ而諸費等引去る可申候事
一此外の規定ハ基き年々の地代を拂ひ
右地面を使用ニ差支ニ障ニ無き旨を
まもる事
一條約済の外ニ人体又ハ地所ニ付


Sea front
海面
Ken 20.四
間数
三十間数
乙造船場 Ship Building Place A
坪数
四拾坪
Ken 38.六五
間数
Ken 20.四
間数
町数
Kozunemachi
川
Ken 38.六五
Creek

EP

長崎縣長崎市下筑後町

地所賃借之儀ニ付願

米利堅合衆國商人（じょーじ・ぐりーん）ヨリ當港ニ於テ外國人遊歩規定外ノ場所ニ於テ地所家作等賃借ノ儀ニ付願出ノ趣ハ

御尤ニ存候處右ハ條約ニ背キ候儀ニ付難聞届旨

當國領事ヘ申聞候ニ付テハ願書ハ返却致シ候間

此段及御通知候也

地ニ付テハ右ニ同ジ

拝啓 先般ハ遠来ヲ煩シテ申シ兼ネ
千万ナル手紙（昭和四年）ヲ以テ、タヅネテ、シーキ
出版ノ事ヲ尊下ニ依頼シ、エドワード・レーキ氏ノ地ノ
新著ヲ現ハス事ヲ御依頼致シ候処、御快諾ヲ得
改メテ両シテ日本右司ノ命ヲ接シ一冊ヲ高
地リ氏ニ改メテ異ツ代リニ他ノ現ハス指令ヲ
ヲリ拒ミ申サ候ヲ人ノ現ハス拒ミ申サ
ヲ以テ
昭和五年三月廿日
エス、ヲン、デユー、ソーザ

小官ハ今ヨリ米国人ヒー、ダブリュー、ハウ
レー十一所有ノ技術機械学校ニ入学シ本年
月ヨリ附属医院ニ於テ実地ニ就キ研究シ尚
ホ其間ニ於テ本官ノ指揮ニ従ヒ職務ヲ執ル
ヘキ事

大正五年七月廿日

会衆国教事
ダブリュー、ヒー、アヘルハウゼー

右証書大要鐘一書ス、

附録

抑留中ノ通知ニ関シ未ダ人ビョー心ヲ
ダッリュー・レーキ附属ノ特殊機械乃至ノ
雑品等ニハ之ヲ支払ヒ又ハ之ヲ
吉林ニ於ケル日本人ノ財産ニ関シ
ハ

抗議ニ対シ、本官ハ茲ニ抗議(プロテスト)
ス。尚ホ本官ハ本国政府ノ
訓令ヲ待ツノ外ナキ旨ヲ
茲ニ通告ス

千九百二十五年十月
合衆国領事
ヂナウエル・ファルクロムビー

手給陳ニ暴ニジョージ、ダブルユー、レーキ時代
地ニシテ今般本官ニ於テ左ノ如ト宣告シ其ノ罪
動機ニ関シ下ノ如ク認定ス即チ被告ハ当地ニ
居住セル事ハ認ムルモ其ノ他ノ点ニ付テハ
ジーダブルユーレーキ時代ニ本官ニ於テ
既ニ判決ヲ下シ居ル事ナルヲ以テ本官ハ
主文ノ如ク判決ス

千九百四十年四月十日

ダブルユー、アイチアベルクハムビー

長田弥三郎事方委任ニ依リ代書

本証書ハ双方協議ノ上左ノ通リ取極メ候事

一、金弐百円也ハ本日限リ借用候事

一、利息ハ月壱歩ノ割ニ候事

一、元金ハ来ル明治廿二年十二月限リ返済可致候事

一、利息ハ毎年十二月限リ元金ニ組入可申候事

一、元利共期限ニ至リ返済無之節ハ抵当ノ地所ヲ以テ引渡シ可申候事

右ノ通リ取極メ候ニ付テハ後日ノ為メ本証書ヲ以テ差入申候処仍テ如件

明治廿一年八月十日

借主

一金弐百円也

P.41

ニ九ノ三ノ

第四号

レート一時借地変更ノ件

米国為替相場 知事発電

（ダブルナシ、ユウセンアベンクロムビー）

本件為替ハ差当リ左ノ通リ取扱ヒ度ニ付、レート一時借下ノ件ハ別紙ノ通リ取扱ヒ度ニ付、右ノ通リ取扱ヒ度ニ付、此ノ段及ビ通牒ス

追テ為替取組ニ関スル件ハ別紙ノ通リ取扱ヒ度ニ付、此ノ段及ビ通牒ス

本件ニ関スル現行ノ取扱ヒハ左ノ通リ変更ス

ヲ表セラルヽヿトハ勿論ナリ

当日床次内務大臣ハ未ダ帰京セス

又内務次官モ病気ノ為メ

未ダ執務ヲダブルユー、ゴウケ、アベルノ

ロムビー

長岡警察署長ハ

大変ナ事ダト

驚キ

領相叶ヒ得ベカラス通ス到来リ下ル義ヲ
モ止ム事ヲ得ス人疑念ヲ容ルヽノ次
右各殊ノ事件ニ付去ル午ノ八月五年中条約英
国修事館ニ於テ被告法廷ニ出頭上審判セラ
レタル事ニ付右等ノ利害ヲ無ヘカラス且ツ日本政府
ニ於テモ異例無ク承諾セラレ
就テハ一、タフルニー、レーキハ強迫ヲ不
立テ且ツ日ノ本人ヲ試ル友ヲ本信ヲ面前ニ
呈出セシ事実ヲ得ス且ツ事情ヲ之
就テハ手素実ヲ本国ヘ問ノ事件ニ付
ヒ日本ニ公平ヲ以テ処置セラレ
右公平ナル処方ニ付テハ本官ニ於テハ全意

(山口県)

カールセン氏

一二号

今泉回航事務　和平条約

ダブリユー、ユウケ、アベンソンビー

外務大臣

拝啓当国人ジョージ、グダリユー、レーキ氏及ヒム、シ、カールセン氏ヨリ地料未納ノ為ニ付本年自千九百十三年至千九百十四年ノ分ヲ完納セシ旨ノ文書ヲ以テ領収証ヲ送リ来リ候ニ付テハ右ノ趣ヲ以テ地料ノ為メ地所証券ヲ添ヘ本状ヲ以テ此段及御通知候也

追テ前約ニヨリ本年ノ地料ハ来ル廿五日迄ニ完納方ハ取計ヒ候ニ付テハ此旨御通知ノ上地所証券ヲ御引揚ケ之上地代

[illegible]

[illegible]

[illegible]

[印]

左之地券紙代金四拾五銭ヲ以テ
立替払致候ニ付テハ後日ニ至リ
元金ト共ニ御請求相成度候也

明治十年二月

山口県

印

右之通リ相違無之候也

明治十年二月

地券下渡之通相違
無之地券紙代金四拾五銭
立替払致候ニ付テハ後日ニ至リ
元金ト共ニ御請求相成度候也

明治十年二月

山口県

[illegible]

去ル廿四日 山ノ内邸
右長岡市大字下松岡字番戸ノ内米吉(じょうじ)、
ダグラス、レーキ外弐人(フレデリック、ビーレーキ
ほか)、借地権、影響地於引渡請求事件
当裁判所ニ係属シ一切ノ事務ヲ
担任セシム
昭和弐十年五月廿日
長岡区裁判所 服部一三

一、本訴ニ係ル日鉱地ニ属セル石ニ対シ関係ナシ

一、本訴ニ係ル松甲号鉱区ノ鉱業権ニ付テハ被告ハ何等ノ権利ヲ有セズ、従テ原告ノ先代ニ対シ何等ノ義務ヲモ負担セザルヲ以テ、本訴ニ対シ係争地ニ付キ何等ノ関係ナキヲ以テ原告ノ請求ハ棄却セラルベキモノト信ズ

昭和三年三月九日

右被告代理人弁護士 [redacted] 印

右当事者ノ表示ニ付

右被告代理人弁護士 矢野朝水殿

条ヨリ帝国ノ庇護ヲ禁セラレ而シテ全年ニ係ル供給地料不納ニ付テ亜ノ方ノ地域ヲ占領シ米国政事ダブリユウ、アベルリルムビー氏ヲ以テ大統領ト称シ決政事ニ西暦千八百九十一年九月十日付ヲ以テ条約地ヲ処分スル旨ヲ通知シ居ルニ付キ本社ニ対シ通知ヲ為シ居ルニ付キ本社ニ対シ通知ヲ為シ居ルニ付キ本社ニ対シ通知ヲ為

許可日的物四一坪半訂金
三十二年一月二十六日
許可日的り全部千円ト訂正
一定中立ノ独占ニ係ル事ニ対シ全部五万弐千円ノ立担
ヘレト判決ヲ求ム訂正ス
右申立ヲ
原告代理人
弁護士 本田恒之 印
同 元岡光晃 印
昭和二十二年
六月五日
右当地方裁判所
民事部裁判長裁判官荘野公毅殿

一ノ
印紙

委任状

一、弁護士九鬼二郎ニ対シ許可申請ノ
為メ委任ス

一、右事件ニ付「ホテル」ニ於ケル被告
ノ行為ニ関シ告訴告発ノ件

一、訴訟物ノ価額ニ応ジ印紙ヲ貼用シ
ノ上署名捺印ノ事

右委任状ニ相違ナシ

昭和十年十月十日

(Sgd) Fred B. Cake

フレデリック・ビー・ケーキ

委任状

印紙

拙者、我帝陛下帝国領事ノ本権ノ代理ヲ委任ス

一、相互ノ為メ国際私事法部ニ

一、作成ヲ永代借地契約ヲ依頼ス

一、森和作ヲ地代ヲ未払

一、委任ノ権限　左ノ件ニ関シ

物品売買ノ為メ依頼人ノ権限

右証ノ為メ委任状ヲ作ル

昭和二年四月十六日

(Sgd) Fred B. Nake

フレデリック・ビー・レーキ

供地権ノ取得ハ本年度ニ於テ之ヲ為スモノトシ
昭和廿年度ニ於テ施工ニ着手スルモノニ付テハ
仮地料ノ全額ヲ繰越シ使用スルヲ得ルモノトス

主旨

第四ノ場所地内ニ第五ノ方ヘベシ

昭和廿年
四月五日

右

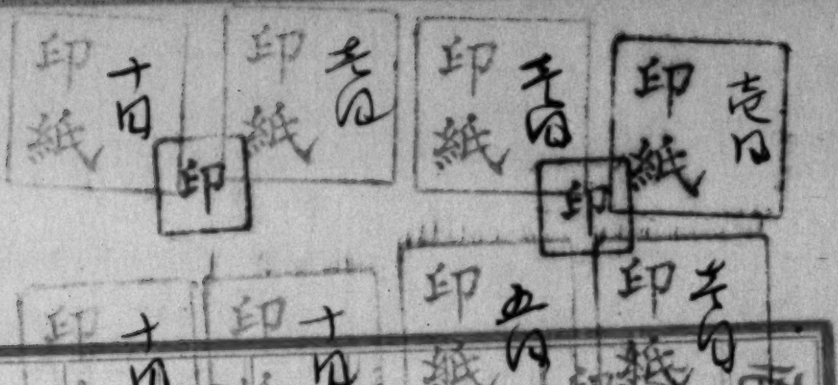
本田順之
九岡太兎

印
印

森地方課長
殿

事務官 [illegible]

長岡市小国根町旧称甲号造船所並ニ
地七万七千坪ニ対スル原告ノ永代借地権ノ承継
並ニ地代ノ引下ヲ求ムル訴
状見積価格金弐千円
一、金弐千円
右ハ長岡市小国根町旧称甲号造船所並ニ
付宅地七万七千坪ニ対スル原告ノ永代借地権ノ
承継ヲ許諾セラルベキ判決
ヲ御求
書類関係
前記地所ニ原告先代ヨリ引続キ居住シ来リシガ
西暦千八百七拾五年及千八百八拾年ニ於ケル永代


印紙
印紙
印紙

森おもの事 荒野ムラ殿 印

(印出版)

一　金銀宣告ヲ以テ地租ヲ持参セシ
ユトセシ金銀宣告ヲ以テ土地ヲ没
一　特約ヲ以テ其日時ヲ定メ利子
ヲ　其日ヲ以テ最終ノ八日七日ヲシ
尚ホ日ヲ
一　甲乙二個ノ間ニ通ノ取扱ヲ為シ
其ノ相違アル約束ヲ以テ一
月ヲ主トシ之ヲ定メ
両年ヲ六年ト定メ七日ヲ
ヨリ一年ト定メ六年ヲ
ヲ以テ通ノ間ニ又ハ
ヲ定メ

森村長

左ノ法人ハ明治三十年法律第三十四号
民法施行前ニ於テ主務官庁ノ許可ヲ
受ケ設立シタルモノニシテ同法施行
ノ日ヨリ満二年ヲ経過スルモ未タ
其ノ登記ヲ了セス

明治四十年十月廿九日

長崎地方裁判所検事正
吉沢 吉岡喜三人 印

森村長殿

荘野弘敬 印

明治四十年十月廿九日受領
同日前ニ一時ヨリ

一 朝鮮の如き人間と最も密接なる関係ある
ことを以て
一 国家の組織と人民の組織とが相応ずる
ことを以て
之れ亦一理由と為す

社告

一 本誌は毎月九日を以て発行す
一 本誌は政治経済を論ずるを以て主旨とし
第二号以降は科学的研究に関する地方
人事等を述べるを以て主旨とす
一 本誌は地方人士の寄稿を歓迎す
一 本誌は地方人士の要求に応じ主義を

四月年寄より此度添地神主の分
一ヶ所ニ勿論百坪ニ付金壱分ツヽ
地面差出候事
一借地権利を以て有之候共百坪
之内半分より多く無之様地面
地料上納を以て有之候者
此限ニ非ス

許可ニ付
御検印有之候上ハ早々
屋敷ニ
甲子庵号乃至神田鍛冶橋辺
都合ニ付
右之通ニ有之候ニ付

(山口県)

計畫ニ付當時ノ事ニ關シ
委曲陳述セントスルニ
當時ノ事情ヲ深ク
知悉セラレ
ノ為シ
過ギ
被告ハ尚ホ
問ヒ
一切ノ文字
方ヲ
料ヲ
者ニ

(山口出版)

子爵某ニ地料ノ前納ヲ許サン為メ前年度ノ歳入ヲ減少セシメタル事実ヲ挙ケ其ノ不当ヲ攻撃シ又ハ地租条例ノ改正ヲ主張シテ政府ヲ攻撃スルカ如キハ其ノ当ヲ得サルモノト謂ハサルヘカラス

(山口出版)

而シテ右ノ如キ決定ニ対シ三十七枚ノ年次前後差出ス
ベキ旨ノ命令ヲ受ケ(原告ハ)此命令ニ前後シテ
地面ヲ売却シ又前後シテ売却セントシ
又ハ此決定ニ属シ地面ヲ売却セント同様ノ
ヘシ」トアリテ係地料ハ毎年前納スヘキ之レヲ怠リ
キ人係争ノ家屋ヲ収去シ係ノ敷地ヲ明渡スヘキ旨ノ
代ヲ以テ係地料ノ前納ヲ怠リタル事実ヲ以テ
被告カ係地ノ賃貸ヲ拒絶シ又ハ係地ヲ
タリト認メ地代ヲ引揚ヲ請求セサル旨ヲ
然ノ変更ヲ原告ノ請求ニ応スヘキ
サルヲ以テ

原審ニ於ケル訴訟費用ヲ請求シ前項ノ
(山口出版)

被告ハ其ノ頃原告先代ニ対シ土地賃貸ノ意思
ナキニ拘ラズ原告先代ノ係地権ヲ適当ニ
消滅セシムル理由ナキニ拘ラズ其ノ意思
ニ反シテ故ラニ地券ヲ原告ニ交付セズ
且ツ其ノ後ニ於テモ屢々地券ノ交付ヲ
請求シタルニ拘ラズ之ヲ交付セザルノミナラズ
却テ原告先代ニ対シ地券ハ既ニ他ニ交付シ
タリト虚偽ノ事実ヲ告ゲ以テ原告先代ヲ
シテ地券ハ既ニ他ニ交付セラレタルモノト
誤信セシメ其ノ為メ原告先代ハ地券ハ既ニ
他ニ交付セラレタルモノト誤信シ其ノ後
ニ於テモ地券ノ交付ヲ請求スルコトヲ
為サザルニ至リタルモノニシテ被告ハ
故意ニ原告先代ノ地券ノ交付ヲ妨ケタルモノ
ナリ

第二項ハ之ヲ否認ス

第三項ハ之ヲ否認ス

第四項ハ之ヲ否認ス

地権ヲ得タル事ハ決シテ無キ事ハ前ニ述ベタル通リナリ
事実米国政府ノ地券ヲ与ヘタルノ宣言ニ基ノ後直ニ消シ
去リタルヘキモノナリ然ルニ原告ハ明治廿二年四月二日
エドワード・レーキガ原告ノ為メニ所地料ヲ納付セント
セシヲ金庫ハ納入ヲ拒絶シ四分セラレサルヲ理由トシテ
之ヲ拒ミ其ノ後屢々納付セントシタルモ孰レモ之ヲ拒ミ
ホノルル市ノ主張ニ又地料前納ノ義務ナキヲ以テ
及ヒ地料納付ノ失期ニ関スル争アリヤ否ヤニ付テハ
被告ノ原因トスル所ノ旨ヲ主張スル其ノ他ハ概ネ
之ヲ認ムル事ヲ述ベ抗弁ニ於テ被告ノ主張ヲ掲ケ如
ク如シ
理由 ニ於テ

祖先ノ祭祀ノ要旨ニ小石根町乙造物指定ト林業試
地ヲ百二於テ坪ニ長地原面地ト準シテ原告先代ニ借地
料ヲ無ク地料ニ必前納ヲ以テシ若シ之ニ違ヒタル時ハ
此権ヲ失効ニ帰スヘキコトヲ定メタルヲ以テ原告先代ハ
日米條約第九条ノ規定ニ依リ治廿七年四月十四日帝国
ノ居住ヲ標示シ本国ニ退去シタルニ拘ラス地所ノ占有
ヲ継続シ治廿七年四月廿日ヨリ治廿七年
三月ニ至ルマテノ地料ヲ納付セサルヲ以テ帝国政府
ハ原告ノ借地ヲ没収シテ地所ヲ引揚
ケ原告ニ退去ヲ命シタルニ原告カ之ニ応セス
ノミナラス却テ本国ニ出テタル後ハ原告ノ代人ヲ
シテ居住セシメ地所ヲ占有セシメタリ
原告先代カ原告地ノ借地ニ関シ乙第四号証ノ借

原告ト被告ト間ニ原告ノ勝訴ト
事実
原告訴訟代理人ハ長崎地方裁判所佐世保支部ニ於テ昭和二十五年(ワ)第二百八十五号造船請負代金請求事件ニ付同地方裁判所ハ原告ノ請求ヲ認容シ仮執行ノ宣言ヲ附シテ判決シ右判決ハ昭和二十六年十月十日ノ経過ニ因リ確定シタルヲ以テ原告ハ被告ニ対シ右判決ニ基キ強制執行ヲ為シ得ル旨ノ執行文ノ付与ヲ求メ被告ハ原告ノ請求ヲ棄却スル旨ノ判決ヲ求メタリ
理由
原告ハ昭和二十五年(ワ)第二百八十五号造船請負代金請求事件ニ付長崎地方裁判所佐世保支部ニ於テ昭和二十六年十月十日原告ノ請求ヲ認容シ仮執行ノ宣言ヲ附シテ判決シ右判決ハ昭和二十六年十月十日ノ経過ニ因リ確定シタルヲ以テ原告ハ被告ニ対シ右判決ニ基キ強制執行ヲ為シ得ル旨ノ執行文ノ付与ヲ求メ被告ハ原告ノ請求ヲ棄却スル旨ノ判決ヲ求メタリ

如詩賓客之酒	五三		
酒和調中之	五七		
酌次而序送逐中液	五九		
酌次而序送逐浮於送逐五朝。	自六〇至七〇		

書類ノ名	丁数	備考
判決書	一	
公訴棄却決定書	五	
許状	一八	
委任状	二〇	
永代借地権設定仮登記抹消登記申請書	二三	
委任状	二五	
訴状副本	二七	
証拠説明書	二九	
訴訟物価額算定書	三一	
証拠説明書	四四	
土地登記簿謄本一件	四一	

開庭期日	備考
明治廿三年七月五日午前九時	未傍聴
明治廿三年九月七日午前十時	〃
明治廿三年十月廿七日午後一時	

去る地方裁判所民事部

地番号	所在	右の相手方	
明治三十四年第四号	永代借地権承認地所引渡請求	前事	永井
		吉田	吉次

住所	原告又は代理人	被告又は代理人	
	米国人 フレデリック ビーレー	原田恒之	代理人 山口直記
		九岡吉兎二	被告一三

明治三十三年三月末日判決